

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

**SCOTT D. LAWSON and  
STEVEN LAWSON,**

**PLAINTIFFS,**

**VS**

**SWIFT TRANSPORTATION  
CO., INC. and  
FREDRICK S. MARTIN, JR.,**

**DEFENDANTS.**

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**CV 2:07cv356-MHT**

**JURY DEMAND**

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

COME NOW the Plaintiffs, Scott D. Lawson and Steven Lawson, and in response to the Motion for Partial Summary Judgment filed by Fredrick S. Martin, Jr., and Swift Transportation Co., Inc., present the following points of fact and law:

**I. STATEMENT OF FACTS**

This case is a result of a wreck involving a commercial tractor-trailer and a passenger vehicle. See Complaint. The wreck occurred on the evening of March 15, 2007. (Plaintiffs' Exhibit 1) The wreck occurred in the eastbound lanes of travel on Highway 84 in Andalusia, Alabama. (Plaintiffs' Exhibit 1) Highway 84 is a four-lane highway. (McGowin pg. 18) In addition to the two eastbound lanes of travel, there is also a turning lane,

which permits vehicles to travel in the northbound direction. (Plaintiffs' Exhibits 1, 2, 3) The weather conditions at the time of the wreck were described as rainy, overcast and nasty. (Scott Lawson pgs. 60, 64) The roads were wet. (McGowin pg. 18)

Defendant Frederick Martin is a driver for Defendant Swift Transportation. (Martin pg. 10) Defendant Martin has testified that he was driving the Swift Transportation tractor-trailer at the time of the wreck. (Martin pg. 52) Defendant Martin was accompanied by another Swift Transportation employee-trainee, Jose Pagan. (Martin pg. 45) For the most part, Mr. Pagan had driven up until the time of the wreck. (Martin pg. 50) As Mr. Pagan and Defendant Martin made their way into the town of Andalusia on March 15, 2007, they looked for the location of the place where they would make their pick up the following morning. (Martin pgs. 47, 48) At some point, they realized they were not headed in the right direction, so they stopped their vehicle along Highway 84. (Martin pgs. 47-51) Jose Pagan stopped the vehicle for four reasons; he was tired, nearly over the federally permitted hours, headed in the wrong direction and was going to switch driving positions with Defendant Martin. (Martin pgs. 50-52)

Defendant Martin took over the driver's seat and before leaving they completed their logbooks. (Martin pgs. 51-53) According to the logbook entry, they remained stationary for thirty minutes. (Plaintiff's Exhibit 4)

Defendant Martin decided he was going to turn the tractor-trailer around, go back into town and find a place to park for the night. (Martin pgs. 53, 54) Defendant Martin tried to complete a U-turn from the far right lane. (Martin pg. 57,58) To complete such a U-turn, Defendant Martin would have traveled from the far right lane, across the inside lane, across the turning lane and into the median. (Plaintiffs' Exhibits 2, 3) According to Defendant Martin, he made a conscious decision to make a U-turn from the far right lane because he needed the room. (Martin pg. 58) According to Defendant Martin, at the time of the wreck it was pitch black. (Martin pg. 45) The wreck occurred on an area of road where lighting is poor. (McGowin pg. 14) According to Defendant Martin, the weather and light conditions were so bad, 'I could see nothing.' (Martin pg. 48)

Traveling behind Defendant Martin were the Plaintiffs, Scott Lawson and Steven Lawson. See Complaint. The plaintiffs are brothers. (Scott Lawson pg. 57) Scott Lawson was driving a Chevy Lumina. (Scott Lawson pgs. 25, 61) Steven Lawson was sitting in the front passenger seat. (Steven Lawson pg. 23)

Slightly before the wreck, the Plaintiffs were traveling in the far right lane going in an eastbound direction on Highway 84. (Scott Lawson pg. 61, McGowin pg. 17) The Lawsons had on their headlights and windshield wipers. (Steven Lawson pg. 21) As the Lawson's crested a hill, Scott Lawson spotted the Swift Transportation tractor-trailer in the right lane. (Scott Lawson pg. 64; McGowin pg. 18) The tractor-trailer appeared to be stopped in the right lane or moving only 1 mile per hour. (Scott Lawson pg. 64)

Upon seeing the stationary tractor-trailer in the roadway, Scott Lawson immediately signaled that he was changing lanes. (Scott Lawson pg. 61) Scott Lawson switched to the inside lane. (Scott Lawson pg. 64) As Scott Lawson approached the side of the Swift Transportation trailer, Defendant Martin "gunned" it, steering the tractor trailer from the outside lane across the inside lane. (Scott Lawson pg. 65, 66) Before making the sudden turn, the driver of the Swift tractor-trailer did not signal that he was going to turn. (Scott Lawson pg. 65; Steve Lawson pgs. 22, 23, 26) Scott Lawson locked up his brakes and his vehicle slid. (Scott Lawson pg. 67) The Lawsons collided with the trailer as it passed in front of them. (Scott Lawson pg. 66) The Lawson vehicle traveled under the Swift Transportation trailer. (Scott Lawson pg. 67). The impact occurred just over the crest of the

hill. (McGowin pg. 18) The actual impact was within 500 feet of the crest of the hill. (Plaintiffs' Exhibit 1) At the time of impact, the Swift tractor was in the median. (Martin pg. 58) The Swift trailer was taking up the turning lane, the inside lane and part of the outside or right lane. (Martin pg. 58)

## **II. APPLICABLE LAW**

In considering a motion for summary judgment, the Court should consider the facts in the light most favorable to the non-moving party.

Adkicks v. S.H. Kress & Co., 398 U.S. 144, 157 (1987). Summary judgment is improper if the dispute about a material fact is genuine, that is, if the evidence is such that a reasonable jury could return a verdict for the plaintiffs. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). If a reasonable fact finder could draw more than one inference from the facts, and that inference creates a genuine issue of material fact, then the Court should refuse to grant summary judgment. Samples v. City of Atlanta, 846 F.2d 1328, 1330 (11<sup>th</sup> Cir. 1988).

Alabama Code § 6-11-20(b)(3) defines wantonness as “conduct which is carried on with a reckless or conscious disregard of the rights or safety of others.” Proof of wantonness does not require proof that any defendant entertained a specific design or intent to injure a plaintiff. K.M. v. Alabama Department of Youth Services, 360 F.Supp.2d 1253, 1263 (M.D.Ala.2005)

*citing* Alfa Mutual Ins. Co. v. Roush, 723 So.2d 723 So.2d 1250, 1256 (Ala. 1998). What constitutes wanton conduct depends on the facts presented in each case. Tolbert v. Tolbert, 903 So.2d 103, 114 (Ala. 2004) (citing Central Alabama Electric Cooperative v. Tapley, 546 So.2d 371 (Ala. 1989)).

The Alabama Supreme Court has defined recklessness as part of the wantonness statute as careless, heedless, inattentive, indifference to consequences. Berry v. Fife, 590 So.2d 884 (Ala. 1991). The question of “wantonness should be submitted to the jury unless there is a total lack of evidence from which the jury could reasonably infer wantonness.” Monroe v. Brown, 307 F.Supp.2<sup>nd</sup> 1268, 1271-72 (M.D. Ala. 2004).

Evidence that defendant left parking area outside southbound lanes of four-lane highway and entered lane nearest to him and that, after entering outside lane and traveling short distance, defendant cut across inside lane in front of approaching southbound motorist while attempting to make sharp U-turn would have justified finding that defendant acted wantonly. See Turkett v. Wedgeworth, 266 So.2d 265 (Ala.1972)

Alabama Code § 32-5A-130 (b) The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the turn shall be made to the left of the center of the

intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

Alabama Code § 32-5A-131 (b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any vehicle approaching from either direction within 500 feet.

Alabama Code § 32-5A-133 (a) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

Alabama Code § 32-5A-133 (b) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

### **III. ARGUMENT**

The Motion for Partial Summary Judgment as to the wantonness count should be denied. Plaintiff has put forth sufficient evidence from which a jury could reasonably conclude wantonness on the part of the defendants. First, Defendant Martin allowed a large commercial vehicle to be stationary or nearly stationary in the right hand lane of Highway 84. From this

stationary position, Defendant Martin made a sudden, illegal turn from the outermost lane across the innermost eastbound lane through the turn lane and into the median. Defendant Martin knew he was turning from the outermost lane. This maneuver was made without warning and without signal. This maneuver blocked all lanes of travel for the eastbound direction. This illegal maneuver was made during the rain in what has been described as “nasty” conditions. The roads were wet. The maneuver was made within 500 feet of the crest of a hill. Visibility and lighting conditions were poor. Additionally, this maneuver was made in violation of at least four statutory provisions. A jury could conclude from these facts that Defendant Martin acted in reckless disregard for the safety of those on the public highway.

The Alabama Supreme Court in the *Turkett* decision, overturned a rendered judgment in favor of a defendant regarding a wantonness count. The Alabama Supreme Court concluded that a jury could infer wantonness on the part of the defendant when such defendant made a U-turn from the outside lane in front of an approaching motorist. The Court additionally noted that the weather conditions were rainy and the roads were wet. Turkett at 107.

This case, in comparison to the *Turkett* case, involves several additional facts from which a jury could conclude wantonness on the part of



the defendants. This case involves a commercial vehicle that is much heavier and longer than any passenger vehicle. This case involves a commercial vehicle that completely became stationary on a public highway. This case involves a commercial vehicle that did not signal its abrupt move across the highway. This case involves a commercial vehicle which completely obstructed all lanes of travel in an area that had limited sight just over the crest of a hill. This case involves a commercial driver that made a turn knowing that conditions were so poor that he could not see anything. The facts of this case build upon a level proof already acknowledged as acceptable by the Alabama Supreme Court in *Turkett* to support allowing a jury to conclude whether or not wantonness conduct existed.

Defendants have cited two decisions to this Court in support of their position that summary judgment should be granted. In essence, defendants argue that because the operator of the tractor trailer did not see the plaintiffs prior to turn, summary judgment should be granted. They argue that in order for the plaintiffs to prevail on this issue, the plaintiffs must demonstrate that he actually was aware that a car was behind him and that his turn would likely result in an injury to the plaintiff. Proof of wantonness however does not require proof that any defendant entertained a specific design or intent to injure a plaintiff. Alfa Mutual at 1256.

Conduct in this case on the part of Defendant Martin was more than mere inadvertence, but rather reckless in nature. Defendant Martin was a trained operator of commercial. His knowledge and appreciation of the need to operate a commercial placed him in a position where he was actually training a new employee on the day in question. As a trained commercial driver, the requisite inquiry is whether he knew or should have known that bringing a commercial vehicle to a complete stop in a lane of travel, on the other side of the crest of hill, in hazardous conditions and then subsequently making an abrupt U-turn across multiple lanes, while completely obstructing traffic on a wet surface, could result in an injury to others operating on the same roadway. A jury could easily conclude the answer to be in the affirmative. As the Middle District of Alabama has noted, the question of wantonness should be submitted to the jury unless there is a total lack of evidence from which the jury could reasonably infer wantonness. Monroe at 1271, 72. Plaintiffs have clearly offered sufficient evidence to meet this standard.

WHEREFORE THESE PREMISES CONSIDERED, Plaintiffs respectfully ask this Honorable Court to deny the Motion for Partial Summary Judgment as to the Wantonness count.

Respectfully submitted,  
s/R. Matt Glover (ASB-7828-A43G)

**Prince Glover Law**

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701 Rice Mine Road North  
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(205) 345-1234  
(205) 752-6313 facsimile  
[mglover@princelaw.net](mailto:mglover@princelaw.net)

s/Stacy Bryan Brooks(ASB-9087-C66B)

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Andalusia, Alabama 36420  
(334) 222-3161  
(334) 222-3163 facsimile  
[joneslaw@andycable.com](mailto:joneslaw@andycable.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Done this the 13th day of March, 2008.

s/R. Matt Glover  
Of Counsel

Lea Richmond, IV, Esquire  
Brandi Kellis, Esquire

Exhibit 1

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

SCOTT D. LAWSON and  
STEVEN LAWSON,

PLAINTIFFS,

VS

SWIFT TRANSPORTATION  
CORPORATION, INC. and  
FREDRICK S. MARTIN, JR.,

DEFENDANTS.

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CV 2:07cv356-MHT

AFFIDAVIT OF STEVEN FRANCIS MCGOWIN

Before me, the undersigned authority, personally appeared Steven Francis McGowin, who being duly sworn, deposes on oath as follows:

My name is Steven Francis McGowin. I have first hand knowledge of the contents of this affidavit. I am an officer with the City of Andalusia Police Department. I have investigated over 150 traffic accidents. I have had accident reconstruction training. Additionally, I have a Class A CDL.

I was the officer that investigated the traffic accident between a Swift Transportation commercial vehicle driven by Fredrick Martin and a passenger vehicle driven by Scott Lawson. The wreck occurred on March 15, 2007, in the eastbound lane of Highway 84 in Covington County. There are two eastbound lanes, as well as turning lanes, in the area of the wreck. The wreck occurred within 500 feet of a crest of a hill.

As an officer, I have training regarding the Alabama Rules of the Road. The Rules are found in Title 32 of the Alabama Code. I use these rules daily in my profession.

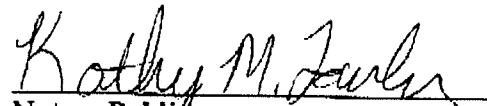
As part of my investigation, I interviewed Mr. Martin at the scene of the wreck. After showing Mr. Martin the location of his trailer tandums and the position of the rear of his trailer, he acknowledged that he had, in fact, began his turn from the outside east bound lane. This driving maneuver made by Mr. Martin and the Swift Transportation commercial vehicle was in violation of Alabama Code Sections 32-5A-130(2) and 32-5A-131(a). Further, if the maneuver was made without using a turning signal, such maneuver would be made in violation of Alabama Code Section 32-5A-133.

Further affiant sayeth not.

  
STEVEN FRANCIS MCGOWIN

STATE OF ALABAMA  
COUNTY OF COVINGTON

Sworn to and subscribed before me, a Notary Public, in and for said County and  
State on this 12 day of March 2008.

  
Notary Public

My commission expires: 9-12-10

Exhibit 3





Exhibit 4

[illegible]

**FREEDOM COURT REPORTING**

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4 SCOTT D. LAWSON and )</p> <p>5 STEVEN LAWSON, )</p> <p>6 Plaintiffs, )CV2:07cv356-MHT</p> <p>7 vs. )</p> <p>8 SWIFT TRANSPORTATION CO.,)</p> <p>9 INC., and FREDRICK S. )</p> <p>10 MARTIN, JR., )</p> <p>11 Defendants. )</p> <p>12</p> <p>13 DEPOSITION OF FREDRICK S. MARTIN, JR.</p> <p>14</p> <p>15 In accordance with the Federal</p> <p>16 Rules of Civil Procedure, as Amended,</p> <p>17 effective May 15, 1988, I, Maya Rose, am</p> <p>18 hereby delivering to MATT GLOVER, the</p> <p>19 original transcript of the oral testimony</p> <p>20 taken on the 15th day of January, 2008.</p> <p>21 Please be advised that this is</p> <p>22 the same and not retained by the Court</p> <p>23 Reporter, nor filed with the Court.</p>	<p>1 evidence, or prior thereto.</p> <p>2 IT IS FURTHER STIPULATED AND</p> <p>3 AGREED that the notice of filing of the</p> <p>4 deposition by the Commissioner is waived.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
Page 2	Page 4
<p>1 S T I P U L A T I O N S</p> <p>2 IT IS STIPULATED AND AGREED, by</p> <p>3 and between the parties, through their</p> <p>4 respective counsel, that the deposition of</p> <p>5 FREDRICK S. MARTIN, JR. may be taken</p> <p>6 before MAYA ROSE, Commissioner, Court</p> <p>7 Reporter and Notary Public, State at</p> <p>8 Large.</p> <p>9 IT IS FURTHER STIPULATED AND</p> <p>10 AGREED that the signature to and the</p> <p>11 reading of the deposition by the witness</p> <p>12 is waived, the deposition to have the same</p> <p>13 force and effect as if full compliance had</p> <p>14 been had with all laws and rules of Court</p> <p>15 relating to the taking of depositions.</p> <p>16 IT IS FURTHER STIPULATED AND</p> <p>17 AGREED that it shall not be necessary for</p> <p>18 any objections to be made by counsel to</p> <p>19 any questions, except as to form or</p> <p>20 leading questions, and that counsel for</p> <p>21 the parties may make objections and assign</p> <p>22 grounds at the time of trial, or at the</p> <p>23 time said deposition is offered in</p>	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Mr. R. Matt Glover</p> <p>5 Attorney at Law</p> <p>6 Prince Glover Law</p> <p>7 1 Cypress Point</p> <p>8 701 Rice Mine Road North</p> <p>9 Tuscaloosa, Alabama 35406</p> <p>10</p> <p>11 FOR THE DEFENDANTS:</p> <p>12 Mr. Chad S. Godwin</p> <p>13 Ms. Brandi M. Kellis</p> <p>14 Attorneys at Law</p> <p>15 Carr Allison</p> <p>16 100 Vestavia Parkway, Suite 200</p> <p>17 Birmingham, Alabama 35216</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

1 (Pages 1 to 4)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**



## FREEDOM COURT REPORTING

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EXAMINATION BY MR. GLOVER:.....	7
E X H I B I T S	
(No exhibits were marked.)	

1 with me.  
2  
3 EXAMINATION BY MR. GLOVER:  
4 Q. If you would, just state your  
5 full name for me, please.  
6 A. Fredrick Stanley Martin.  
7 Q. Mr. Martin, I know you probably  
8 already know this, but I represent the  
9 Lawson brothers in a case that's been  
10 filed in the Middle District of Alabama.  
11 And you're a defendant in the case as well  
12 as Swift Transportation.  
13 A. Uh-huh.  
14 Q. Of course, you're aware that  
15 today's deposition testimony is under  
16 oath; correct?  
17 A. Yes.  
18 Q. Have you ever provided any  
19 sworn testimony before?  
20 A. No.  
21 Q. And when I mean sworn  
22 testimony, I'm talking about whether it be  
23 at trial or in a setting like this for a

I, Maya Rose, a Court Reporter of  
Birmingham, Alabama, and a Notary Public  
in the State of Alabama at Large, acting  
as Commissioner, certify that on this  
day, pursuant to the Federal Rules of  
Civil Procedure and the foregoing  
stipulation of counsel, there came before  
me at 100 Vestavia Parkway, Suite 200,  
Birmingham, Alabama, on the 15th day of  
January, 2008, commencing at 1:06 p.m.,  
FREDRICK S. MARTIN, JR., witness in the  
above cause, for oral examination,  
whereupon the following proceedings were  
had and done:

FREDRICK S. MARTIN, JR.,  
being first duly sworn, was examined and  
testified as follows:

THE REPORTER: Usual  
stipulations?

MR. GODWIN: Please.

MR. GLOVER: That will be fine

1 deposition?  
2 A. No.  
3 Q. Okay. This is your first time?  
4 A. First time.  
5 Q. Have you ever been involved in  
6 a lawsuit prior to this?  
7 A. No.  
8 Q. Have you ever been named as a  
9 defendant in a lawsuit --  
10 A. No.  
11 Q. -- prior to this?  
12 A. No.  
13 Q. Okay. And one of the things  
14 that probably you and I will do -- both of  
15 us may do today is while I'm talking  
16 you'll talk, or while you're talking I'm  
17 talking. And just to be real clear for  
18 the record, I'll wait until you finish and  
19 I may remind to you wait until I finish,  
20 too, just for clarity; okay?  
21 A. Certainly.  
22 Q. What is your full address where  
23 you live today?

## FREEDOM COURT REPORTING

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1 A. I use Post Office Box 3285,  
2 Cookville, Tennessee 38502. My street  
3 address is 533 East 20th Street, 38501.  
4 Q. That's in Cookville as well?  
5 A. It is in Cookville.  
6 Q. Okay. Are you married?  
7 A. No.  
8 Q. Have you ever been married?  
9 A. Yes.  
10 Q. How many times?  
11 A. Twice.  
12 Q. Are either of your spouses,  
13 former spouses still alive?  
14 A. Yes.  
15 Q. Do either of them live in  
16 Alabama?  
17 A. No.  
18 Q. Do you have any children over  
19 the age of eighteen?  
20 A. Yes.  
21 Q. Do any of those children live  
22 in Alabama?  
23 A. No.

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1 Q. Do you have any family that you  
2 know of that live in the state of Alabama?  
3 A. None.  
4 Q. Okay. What about any close  
5 personal friends that live in Alabama?  
6 A. None.  
7 Q. All right. Are you currently  
8 employed?  
9 A. Yes.  
10 Q. And who are you employed with?  
11 A. Swift Transportation.  
12 Q. How long have you been employed  
13 with Swift Transportation?  
14 A. Approximately three years.  
15 Q. What kind of work do you  
16 currently do for Swift Transportation?  
17 A. Drive a truck.  
18 Q. You've been driving a truck for  
19 the entire three-year period?  
20 A. Yes.  
21 Q. Now, where are you stationed  
22 out of? I should say, where's your  
23 terminal?

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1 A. My terminal is Memphis,  
2 Tennessee.  
3 Q. Is Cookville pretty close to  
4 Memphis?  
5 A. Two hundred and nine miles.  
6 Q. Okay. Do you have to drive  
7 over there before you go to driving your  
8 tractor?  
9 A. No, sir. I went to Memphis and  
10 got a truck, and then I drive  
11 over-the-road. And when I go home, I  
12 bring my truck home.  
13 Q. You bring your tractor home?  
14 A. Uh-huh.  
15 Q. And so then you -- when you  
16 leave the next go-around, you just leave  
17 from your home?  
18 A. Yes.  
19 Q. And have you been doing that  
20 for the entire three time --  
21 A. Yes.  
22 Q. -- three years?  
23 A. Yes.

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1 Q. Do you have a supervisor over  
2 at Swift Transportation?  
3 A. My driver manager is Darlene  
4 Smith.  
5 Q. Darlene Smith?  
6 A. Uh-huh.  
7 Q. How long has Ms. Smith been  
8 your driver manager?  
9 A. I'm not sure.  
10 Q. Has she been there the entire  
11 three-year period?  
12 A. No.  
13 Q. Now, did you have other  
14 managers?  
15 A. Yes.  
16 Q. Can you recall any of their  
17 names?  
18 A. Ryan Lacks, William Kirkdorfer,  
19 and Rick Bryant.  
20 Q. Who hired you at Swift?  
21 A. That would -- I don't know.  
22 Q. You just don't recall or --  
23 A. No. It was done over the phone

3 (Pages 9 to 12)

## FREEDOM COURT REPORTING

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<p>1 with an Arizona recruiter.  2 Q. How did you come about applying  3 with Swift?  4 A. I had a friend driving for  5 them.  6 Q. Who is that friend?  7 A. Frank McNutt.  8 Q. How long have you been driving  9 a tractor?  10 A. Approximately eight years.  11 Q. Do you still have a license?  12 A. Yes.  13 Q. And have you had a license just  14 for eight years?  15 A. A commercial CDL license, yes.  16 Q. For eight years. Which state  17 issued you that license?  18 A. Connecticut.  19 Q. Is that where you were living  20 eight years ago?  21 A. Yes.  22 Q. When did you actually start  23 driving a commercial vehicle?</p>	<p>1 Q. Have you ever lost it  2 temporarily for any reason?  3 A. Yes. One time briefly.  4 Q. What was that for?  5 A. It was because after my  6 divorce, the renewal statement for my  7 license went to my ex-wife's house and she  8 never forwarded it to me. And I just  9 never looked at the expiration date.  10 Q. All right. Do you recall about  11 when that occurred, time frame?  12 A. It was late '80s. But other  13 than that, I can't tell you. I don't  14 know.  15 Q. Late '90s?  16 A. '80s. Late '80s.  17 Q. Okay. Was that a commercial  18 license?  19 A. No.  20 Q. That was just a driver's  21 license?  22 A. Just a driver's license.  23 Q. Okay. Have you ever had your</p>
Page 14	Page 16
<p>1 A. Approximately eight years ago.  2 Q. Who did you first start driving  3 with?  4 A. Baylor Trucking Company out of  5 Milan, Indiana.  6 Q. And how long did you drive for  7 that particular company?  8 A. Approximately five years.  9 Q. And then you left -- did you  10 leave there to go work at Swift?  11 A. Yes.  12 Q. And why did you leave the  13 company up in Indiana?  14 A. Just for more money, better --  15 better position, better company.  16 Q. All right. You were not asked  17 to leave --  18 A. No.  19 Q. -- the company in Indiana? In  20 that eight-year period that you've had  21 your commercial license, has it ever been  22 suspended?  23 A. No.</p>	<p>1 commercial driver's license --  2 A. No.  3 Q. -- suspended or --  4 MR. GODWIN: Let him finish the  5 question before you --  6 A. Right.  7 MR. GODWIN: I know you  8 probably both are on the same page, but --  9 A. Yeah. Understood.  10 Q. You've had your commercial  11 license consistently for the last eight  12 years?  13 A. Yes, I have.  14 Q. What you were telling me about  15 a license not being renewed for a period  16 was just your ordinary driver's license?  17 A. That is correct.  18 Q. And what state did you have a  19 license with at that time?  20 A. Connecticut.  21 Q. Is your driver's license today  22 issued through the State of Tennessee?  23 A. Yes.</p>

4 (Pages 13 to 16)

## FREEDOM COURT REPORTING

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1 Q. Do you have a copy of that here  
2 today?

3 A. Yes.

4 Q. Okay. I may, if it's okay with  
5 your attorney, get a photocopy of your  
6 driver's license before I leave.

7 MR. GODWIN: That's fine.

8 Q. Now, since you've worked with  
9 Swift Transportation, have you had any  
10 speeding tickets?

11 A. Yes. Just the one I can  
12 recall.

13 Q. Okay. You've had one speeding  
14 ticket that you can recall while driving  
15 for Swift Transportation?

16 A. Yes.

17 Q. What do you recall about that  
18 particular speeding ticket?

19 A. It was going 62 in a 55 zone in  
20 California.

21 Q. Let me show you your responses  
22 to our first set of interrogatories. I  
23 just want to make sure that you have seen

1 started working for Swift?

2 A. Yes, sir.

3 Q. Is there a chance that you may  
4 have had another one while you were  
5 working with Swift Transportation that you  
6 can't recall the details of?

7 A. I'm not sure.

8 MR. GODWIN: Object to the  
9 form.

10 Q. Have you had any wrecks,  
11 besides the one that we're here for today,  
12 since you started working for Swift  
13 Transportation?

14 A. Yes.

15 Q. How many?

16 A. One.

17 Q. That's besides the one we're  
18 here for today?

19 A. Yes.

20 Q. What do you recall about that  
21 wreck?

22 A. There was a truck parked on the  
23 side of the road, and I was in the first

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Page 20

1 these --

2 A. Yes --

3 Q. -- before.

4 A. -- I have.

5 Q. What did you do to prepare for  
6 your deposition here today besides  
7 speaking with your attorneys?

8 A. Nothing.

9 Q. Did you review any documents?

10 A. No, sir.

11 Q. Did you review any of your  
12 responses to the interrogatories?

13 A. I reviewed these, yes.

14 Q. Okay. Did you review any  
15 photographs?

16 A. No.

17 Q. Did you review any videotapes?

18 A. No.

19 Q. Have you reviewed any other  
20 testimony in this case?

21 A. No.

22 Q. You say that you could only  
23 recall one speeding ticket since you've

1 lane going by that truck when a flatbed  
2 passed me and came over across into my  
3 lane and forced me over. And my right  
4 mirror hit the driver's side mirror of the  
5 truck on the side of the road just because  
6 of being squeezed in. But that was it.

7 Q. Was anyone injured in that  
8 wreck?

9 A. There was no damage other than  
10 the mirrors, and no injuries.

11 Q. Where did that wreck occur?

12 A. I have no idea.

13 Q. According to the interrogatory  
14 responses that you provided, there's a  
15 description of a wreck in New Mexico, July  
16 of '05. You said, I hit another  
17 tractor-trailer's mirror with one of mine.

18 A. That's it.

19 Q. Okay. So that would have -- if  
20 the information you provided in your  
21 interrogatory is correct, that should have  
22 been in July of '05?

23 A. Yes, sir.

5 (Pages 17 to 20)

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 21</p> <p>1 Q. Now, I know some companies when 2 you're involved in a wreck, they make a 3 determination as to whether or not the 4 wreck was preventable on the part of their 5 driver. Are you familiar with a process 6 like that? 7 A. Yes, I am. 8 Q. Does Swift Transportation, from 9 your experience, use that type system? 10 A. Yes, they do. 11 Q. When you're involved in a wreck 12 like the one back in July of '05, do you 13 have to submit any kind of documentation 14 to your employer, Swift Transportation? 15 A. You take pictures of the 16 incident, of the trucks, of the 17 intersection of the highway, and you fill 18 out an accident report, and -- with a 19 description of the accident, and send it 20 in to the Phoenix home office. 21 Q. When are you supposed to fill 22 out the accident report in relation to 23 when the wreck occurs?</p>	<p style="text-align: right;">Page 23</p> <p>1 A. Frankly, it's by assumption. 2 Usually 99 percent of the time, the 3 company is going to say it's preventable. 4 Q. It's preventable on the part of 5 the driver? 6 A. That's, yeah, very often the 7 case, according to the company, yes. 8 Q. When you started working with 9 Swift Transportation, did they give you 10 any kind of an employee or driver's 11 manual -- 12 A. Yes. 13 Q. -- that explained their 14 policies? 15 A. Yes. 16 Q. Do you have a copy of that? 17 A. Yes, I do. 18 Q. Do you know if that employee 19 manual in any way addresses this notion of 20 determining whether or not a wreck is 21 preventable or not preventable? 22 A. I don't believe it does. 23 Q. How do you know that Swift</p>
<p style="text-align: right;">Page 22</p> <p>1 A. As soon as possible. 2 Q. Do you fill that out by 3 yourself? 4 A. Yes. 5 Q. Do you write a description of 6 how the wreck occurred? 7 A. Yes. 8 Q. Did you do that back in '05 9 with the New Mexico incident? 10 A. I don't know, to be honest, but 11 I believe I did. 12 Q. Okay. Did you recall whether 13 or not your employer at that time, Swift 14 Transportation, made a determination as to 15 whether or not that was a preventable 16 incident on your part? 17 A. I don't know the answer to that 18 either, no. 19 Q. How does Swift Transportation 20 ordinarily let their employees or drivers 21 know as to their determination about 22 whether a wreck is preventable or not 23 preventable?</p>	<p style="text-align: right;">Page 24</p> <p>1 Transportation has that, that procedure of 2 making a determination as to whether or 3 not a wreck is preventable or not 4 preventable? 5 A. I -- I don't know. I don't 6 know how to answer that. 7 Q. You just know that they do? 8 A. I -- I do. I know that every 9 trucking company comes up with preventable 10 or non-preventable in every incident. 11 Q. Does Swift Transportation have 12 any kind of policy of assigning you points 13 for various driving offenses? 14 A. Not that I'm aware of. 15 Q. Do they have any kind of bonus 16 or incentive policy to reward you for good 17 driving? 18 A. No. 19 Q. I think I asked this, but you 20 don't know if the company determined the 21 July '05 incident was preventable on your 22 part or not? 23 A. I don't know.</p>

6 (Pages 21 to 24)

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## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 25</p> <p>1 Q. Do you know who makes that</p> <p>2 determination on behalf of Swift?</p> <p>3 A. No, sir.</p> <p>4 Q. I know you said you had one</p> <p>5 speeding ticket, at least one speeding</p> <p>6 ticket while working with Swift, and then</p> <p>7 this one incident in New Mexico in '05.</p> <p>8 Have you had any other driving or moving</p> <p>9 violations since you started working with</p> <p>10 Swift Transportation?</p> <p>11 A. Yes. I had one other lane -- I</p> <p>12 was in the left lane when I was supposed</p> <p>13 to be in the right lane on a -- passing a</p> <p>14 truck on a hill.</p> <p>15 Q. Did you get a citation for</p> <p>16 that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall what state?</p> <p>19 A. No.</p> <p>20 Q. Do you have to report those to</p> <p>21 your company when you get something like</p> <p>22 that?</p> <p>23 A. Yes.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Do you recall where you paid</p> <p>2 your fine?</p> <p>3 A. No, sir.</p> <p>4 Q. Any other moving violations</p> <p>5 since you worked with Swift</p> <p>6 Transportation?</p> <p>7 A. No, sir, none that I can think</p> <p>8 of.</p> <p>9 Q. Now, I know that most companies</p> <p>10 that abide by the law will every year</p> <p>11 require their drivers to fill out a</p> <p>12 form --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- which certifies whether</p> <p>15 they've had any violations in the year.</p> <p>16 Are you aware of that procedure?</p> <p>17 A. Yes, I am.</p> <p>18 Q. Okay.</p> <p>19 MR. GODWIN: I just want to</p> <p>20 make sure he wasn't about to talk over</p> <p>21 you.</p> <p>22 MR. GLOVER: Oh, okay.</p> <p>23 Q. Have you done that since you've</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Would you have reported that to</p> <p>2 Swift Transportation?</p> <p>3 A. Yes.</p> <p>4 Q. How does a driver report that</p> <p>5 type information to the company?</p> <p>6 A. You just tell your dispatcher.</p> <p>7 Q. Is the dispatcher different</p> <p>8 than the manager that we spoke about?</p> <p>9 A. Driver manager.</p> <p>10 Q. Okay. Same thing?</p> <p>11 A. It used to be called a</p> <p>12 dispatcher. Their new title is driver</p> <p>13 manager.</p> <p>14 Q. Okay. Do you know which</p> <p>15 dispatcher or driver manager that you</p> <p>16 reported that moving violation to?</p> <p>17 A. No idea.</p> <p>18 Q. Now, when a violation like that</p> <p>19 occurs, does the company pay for the</p> <p>20 citation?</p> <p>21 A. No.</p> <p>22 Q. You have to pay that yourself?</p> <p>23 A. Yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 worked at Swift Transportation?</p> <p>2 A. Yes, I have.</p> <p>3 Q. And would you provide those</p> <p>4 type documents to the -- to your employer</p> <p>5 when you completed it?</p> <p>6 A. It's done on the Qualcomm</p> <p>7 computer in my truck. It's not on a paper</p> <p>8 form.</p> <p>9 Q. Okay. Explain how that would</p> <p>10 work if you would -- like, let's say, you</p> <p>11 get a moving violation. Do you have to</p> <p>12 log that in on the Qualcomm system?</p> <p>13 A. You send it, just a free form</p> <p>14 message, to the dispatcher saying, you</p> <p>15 know, I was ticketed for whatever, lane</p> <p>16 violation.</p> <p>17 Q. All right. But is that the</p> <p>18 only -- the document that I'm thinking of</p> <p>19 is like a written paper that says --</p> <p>20 you've got to list them out, your</p> <p>21 violations. It's like your annual renewal</p> <p>22 certification, and you certified that that</p> <p>23 is the only moving violations that you've</p>

7 (Pages 25 to 28)

## FREEDOM COURT REPORTING

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during the year.

A. Okay. As I said, it is done on the Qualcomm computer. It's not on done on paper.

Q. All right.

A. But they have a format on the computer. They send you that saying, this is your annual review. Please list all violations. And you have to put them all on the computer and send it.

Q. Gotcha. Have you ever received any warnings about your job performance by Swift Transportation?

A. Yes, I guess I could say I have. But for minor -- it was for idling time.

Q. Explain what idling time is for

A. Stopping at night, leaving the truck running all night. They want you in a certain percentage range, and I was not in that percentage range. And that was the only. But that's the result of the

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1 A. No, sir.

2 Q. Have you ever had any kind of  
3 written reprimands from Swift  
4 Transportation?

5 A. No.

6 Q. You've never been placed on  
7 probation or anything like that?

8 A. No.

9 Q. Have you ever missed out on any  
10 raises that you were supposed to get  
11 because of a driving violation?

12 A. No.

13 Q. Now, if I understand, you  
14 worked for two different driving  
15 companies --

16 A. That's correct.

17 Q. -- transportation companies?

18 A. Yes.

19 Q. I want to go back and talk  
20 about the other one now, the one that was  
21 up in Indiana.

22 A. Uh-huh.

23 Q. What was it called again?

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itself being a problem.

Q. Okay. Is that the only type of warning you've ever received --

A. Yes, sir. That's all I can think of.

Q. -- from Swift Transportation?

MR. GODWIN: Let him finish his question. You're doing good. I'm just --

Q. Yeah. You're doing real good. You're doing better than me.

The other moving violation that you talked about with me when you passed a vehicle in the wrong lane, has that been since the wreck that we're here for today, or was that before?

A. It was prior.

Q. That was prior to the wreck?

A. Yes.

Q. Okay. Have you had any moving violations since the wreck --

A. No, sir.

Q. -- that we're here for today, the --

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1 A. Baylor, B-a-y-l-o-r.

2 Q. Now, while you drove a  
3 commercial vehicle for Baylor, did you  
4 have any wrecks?

5 A. I had one that was my fault --  
6 well, it wasn't a wreck, so to speak, but  
7 it was an accident. And one that was a  
8 student's fault.

9 Q. In looking at your  
10 interrogatory responses, it says that in  
11 January of '07 -- that would have been, I  
12 guess, two months before this wreck;  
13 right?

14 A. Uh-huh.

15 Q. It says a student driver was  
16 driving and hit a parked vehicle while  
17 making a left turn at a truck stop. I was  
18 a passenger -- I was in the passenger  
19 seat.

20 A. Yes.

21 Q. Are you referring to that one?

22 A. No.

23 Q. Okay. Well, let's start with

8 (Pages 29 to 32)

## FREEDOM COURT REPORTING

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1 the one then that you said was -- I think  
2 you described it as an accident that may  
3 have been your fault.

4 A. That was as we were talking  
5 about Baylor. The 2007 was with Swift.

6 Q. I'm sorry. I apologize. Tell  
7 me about the one when you worked with  
8 Baylor that you described as an accident.

9 A. I was backed into a dock that  
10 was inside a building and had the doors  
11 open as they are on a trailer. As I  
12 pulled out, it's dark in the building,  
13 there's bright sun outside, I couldn't --  
14 I lost sight of that door. And I came out  
15 slowly, but nonetheless, I hit -- the door  
16 caught on the doorjamb --

17 Q. Gotcha.

18 A. -- and ripped the door off the  
19 back of the trailer. That was it. It was  
20 not with another vehicle.

21 Q. Did anyone get injured in that?

22 A. No.

23 Q. Now, you also described another

1 interrogatory response, it lists one in  
2 September of '01. It says, I do not  
3 recall the details. I hit a deer.

4 A. Oh, well, yeah. Okay. I was  
5 in Pennsylvania. That's all I know. I  
6 was driving down the road and a deer ran  
7 in front of me. And the rule in trucking  
8 is you don't brake for deer.

9 Q. I've gotcha. But you were  
10 driving a commercial vehicle?

11 A. Yes, sir. I was in a  
12 tractor-trailer.

13 Q. There's one listed in January  
14 of '01 that says, I do not recall the  
15 location. Some people where I was  
16 delivering claimed I hit another trailer  
17 was parked. My employer, Baylor Trucking,  
18 denied the claim.

19 A. Yes, sir.

20 Q. Do you recall that?

21 A. Yes, sir.

22 Q. Do you recall anything about  
23 that?

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1 one with a student driver --

2 A. Yes.

3 Q. -- I believe, when you worked  
4 at Baylor?

5 A. Yes.

6 Q. Can you tell me about that?

7 A. We were at an intersection. He  
8 was driving. I was in the passenger seat.  
9 He was making a left to get on an entrance  
10 ramp to get on the highway in Riverdale,  
11 Utah. And the oncoming traffic from the  
12 opposite direction got a red light and we  
13 had a green arrow. He turned, and a lady  
14 came through the red light and hit the  
15 tractor drive wheels --

16 Q. Okay.

17 A. -- with her vehicle.

18 Q. Any other wrecks that you've  
19 been involved in while you -- accidents  
20 since you drove with Baylor?

21 A. I'd say that's all I can think  
22 of.

23 Q. There's a -- on your

1 A. All I recall -- I know -- I  
2 don't know where it was, but I was -- I  
3 was backing into a dock between a parked  
4 trailer that was docked. There was an  
5 open dock, which I was backing into, and  
6 next to that was a big trash compactor.  
7 And as I backed into that parking spot, it  
8 was very tight. It was a very hard angle  
9 and there were a lot of cars parked  
10 around, which made it extremely difficult  
11 to get in. It took me over twenty minutes  
12 to park that truck in that spot because I  
13 had to get out and look, back up a little  
14 bit, get out and look. I kept going  
15 forward and backward and getting out and  
16 looking, stopped, and, you know, back and  
17 forth. But I didn't hit the trailer. I  
18 backed into the dock and that was it. I  
19 was there. And they never said a word.  
20 They unloaded me.

21 And then after I drove out of  
22 there and was proceeding to close the  
23 doors on my truck, they come running out

9 (Pages 33 to 36)



## FREEDOM COURT REPORTING

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1 and said, you hit that trailer, you hit  
2 that trailer. And I said, no, I never hit  
3 that trailer. And we went back and forth  
4 about it. And we looked at my truck  
5 because there was a big long gash in the  
6 trailer and aluminum peelings peeled off  
7 the side of the trailer. There was no  
8 shavings or aluminum filings on the back  
9 of my trailer where my hinges would have  
10 been what would -- of the door would have  
11 been what hit him. There was nothing, no  
12 evidence of that. And one of the fellows  
13 there agreed, there was no evidence of it,  
14 no scratching, no nothing. And so that's  
15 why Baylor denied the claim.

16 Q. Do you know if they paid the  
17 claim at some point?

18 A. I don't know if they did. I  
19 have -- I would have no way of knowing  
20 that. I'm sure they didn't, my guess  
21 would be.

22 MR. GODWIN: Just answer the  
23 question that's asked.

1 swipe of the trailer. Not that I hit him  
2 with any -- you know, the front. But as  
3 the trailer turned around, the tail swipe  
4 wiped the driver's side rearview mirror  
5 off. Of course, I would not know that or  
6 hear it in the truck.

7 Q. Okay. You're not admitting it  
8 or denying it?

9 A. That's correct.

10 Q. Okay. Was that in a commercial  
11 vehicle?

12 A. Yes.

13 Q. Any other incidents that you  
14 recall?

15 A. No, sir.

16 Q. Now, when you were a driver for  
17 Baylor, did you get any moving violations?

18 A. Yeah. I had -- I had one -- I  
19 had one speeding ticket in Ohio.

20 Q. While driving a commercial  
21 vehicle?

22 A. Yes.

23 Q. What do you recall about the

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1 Q. November of 2000, it says, I do  
2 not recall the location. I made a left  
3 turn and hit a pickup truck that had been  
4 parked and began moving during my turn. I  
5 knocked one of his mirrors off.

6 A. Uh-huh.

7 Q. Is that different than any of  
8 the ones we've talked about today?

9 A. Yes, it is.

10 Q. What do you recall about that?

11 A. I was driving down a two-lane  
12 road and there was vehicles parked on the  
13 side at the curb. There was a pickup  
14 truck, and the man -- I saw the man get in  
15 his truck as I was coming up to him very  
16 slowly. It was at a light. He got in his  
17 truck, started his truck and he was going  
18 to move away. And I turned the corner and  
19 went around down another road over to the  
20 place and I docked. That was all I knew.

21 And then a friend of this  
22 gentleman came running over there later  
23 and said I hit him, and -- with the tail

1 speeding ticket in Ohio?

2 A. I was just -- again, Ohio is a  
3 55 -- 65 for cars and 55 for trucks, and I  
4 was doing, like, 60 miles an hour.

5 Q. Any other moving violations  
6 while driving for Baylor?

7 A. None that I can think of, no,  
8 sir.

9 Q. Okay. Now, during that same  
10 time period when you were driving for  
11 Baylor or when you were driving for Swift,  
12 have you had any moving violations in,  
13 like, even a personal vehicle?

14 A. No.

15 Q. Have you had any other wrecks,  
16 like, while you were driving a personal  
17 vehicle?

18 A. Not -- ask that again, please.  
19 Clarify what you're saying.

20 Q. Yeah. Any vehicle that's not a  
21 commercial vehicle --

22 A. Uh-huh.

23 Q. -- have you ever had a wreck?

10 (Pages 37 to 40)

## FREEDOM COURT REPORTING

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<p>1 A. Ever in my life?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. How many would you say?</p> <p>5 A. I don't know, one or two maybe.</p> <p>6 I can't -- I don't know exactly.</p> <p>7 Q. Have you had any in the last</p> <p>8 ten years?</p> <p>9 A. No.</p> <p>10 Q. All right. Any of the wrecks</p> <p>11 that you've been involved in in a</p> <p>12 passenger vehicle, did any of those wrecks</p> <p>13 result in someone being injured?</p> <p>14 A. No.</p> <p>15 Q. While you worked at Baylor, did</p> <p>16 you ever get any warnings --</p> <p>17 A. No.</p> <p>18 Q. -- about your driving</p> <p>19 performance?</p> <p>20 A. No.</p> <p>21 Q. Have you ever been convicted of</p> <p>22 any crimes?</p> <p>23 A. No.</p>	<p>1 Vietnam.</p> <p>2 Q. Okay. I'm not going to go into</p> <p>3 your treatment too much, but have you ever</p> <p>4 been told by a doctor that you have a</p> <p>5 condition that would affect your ability</p> <p>6 to drive?</p> <p>7 A. No.</p> <p>8 Q. Have you ever felt like you had</p> <p>9 a medical condition that prohibited you</p> <p>10 from driving?</p> <p>11 A. No.</p> <p>12 Q. I know that when you drive a</p> <p>13 commercial vehicle you have to have a</p> <p>14 medical card filled out every so often.</p> <p>15 A. Uh-huh.</p> <p>16 Q. Do you have a valid medical</p> <p>17 card?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Which doctor do you see to get</p> <p>20 that completed? Which doctor do you go to</p> <p>21 for your driver's examination, your</p> <p>22 medical examination?</p> <p>23 A. I can't tell you that. I --</p>
Page 42	Page 44
<p>1 Q. Have you ever been arrested?</p> <p>2 A. Well, I don't know, to tell you</p> <p>3 the truth. I was sent to jail for thirty</p> <p>4 days for contempt of court, but I don't</p> <p>5 know if that constitutes being arrested or</p> <p>6 not.</p> <p>7 Q. Was that in the last ten years?</p> <p>8 A. No.</p> <p>9 Q. Is that the only time where you</p> <p>10 may have been arrested?</p> <p>11 A. Yes.</p> <p>12 Q. In looking at your</p> <p>13 interrogatory responses, it looks like you</p> <p>14 received treatment at the VA Hospital in</p> <p>15 Murfreesboro --</p> <p>16 A. Yes, sir.</p> <p>17 Q. -- is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. I take it you're a veteran</p> <p>20 then?</p> <p>21 A. I am.</p> <p>22 Q. Of which branch?</p> <p>23 A. The Army and the Air Force in</p>	<p>1 wherever I happen to be at the time when</p> <p>2 it's time for my physical, they -- the</p> <p>3 company tells me to go here or go there.</p> <p>4 I might go anywhere. The last time, I</p> <p>5 think I went to the Concentra Medical in</p> <p>6 Memphis. I had the card in my wallet.</p> <p>7 But it can be anywhere.</p> <p>8 MR. GODWIN: You've answered</p> <p>9 the question.</p> <p>10 Q. Have you ever gone without</p> <p>11 having a medical card driving a commercial</p> <p>12 vehicle?</p> <p>13 A. No.</p> <p>14 Q. My understanding is you've</p> <p>15 never applied for any kind of disability;</p> <p>16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Now, since you've been driving</p> <p>19 for Swift, is there an area of the country</p> <p>20 that you primarily drive in?</p> <p>21 A. No, sir.</p> <p>22 Q. You drive about everywhere or</p> <p>23 wherever they send you?</p>

11 (Pages 41 to 44)

## FREEDOM COURT REPORTING

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<p>1 A. Yes, I do.</p> <p>2 Q. Okay. I take it then that when</p> <p>3 you're out on the road, you're completing</p> <p>4 a logbook?</p> <p>5 A. Yes.</p> <p>6 Q. Who do you turn that completed</p> <p>7 logbook in to?</p> <p>8 A. You don't. You turn in the</p> <p>9 pages every couple of days to Swift.</p> <p>10 Q. Do you mail those in?</p> <p>11 A. Yes.</p> <p>12 Q. Going forward now to this wreck</p> <p>13 that we're here for today, did you have</p> <p>14 someone else in the vehicle with you?</p> <p>15 A. Yes.</p> <p>16 Q. Who was that?</p> <p>17 A. It was a student. Jose Pagan.</p> <p>18 Q. He was allowed to be there?</p> <p>19 A. Yes. He was a student.</p> <p>20 Q. Were you showing him some of</p> <p>21 the ins and outs of being a driver?</p> <p>22 A. We -- I train students for</p> <p>23 Swift, and I take a student out for six</p>	<p>1 Andalusia?</p> <p>2 A. It was to make a pickup.</p> <p>3 Q. Were you empty at the time --</p> <p>4 A. Yes.</p> <p>5 Q. -- of the wreck?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall where you were</p> <p>8 making a pickup?</p> <p>9 A. No.</p> <p>10 Q. Do you recall what you were</p> <p>11 going to pick up?</p> <p>12 A. No.</p> <p>13 Q. Had you been to Andalusia</p> <p>14 before?</p> <p>15 A. No.</p> <p>16 Q. Well, tell me what you recall</p> <p>17 about the wreck that we're here for today.</p> <p>18 A. Well, we were looking for -- we</p> <p>19 were looking to try to find the place</p> <p>20 ahead of time. We couldn't pick up until</p> <p>21 morning, but we were trying to find it</p> <p>22 that night so we'd know where it was</p> <p>23 before we parked for the evening. And he</p>
Page 46	Page 48
<p>1 weeks and train them.</p> <p>2 Q. Okay. That's what you -- part</p> <p>3 of what you were doing during the time of</p> <p>4 this wreck?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall how many days you</p> <p>7 had been on the road at the time of this</p> <p>8 wreck?</p> <p>9 A. No, sir.</p> <p>10 Q. That's something that your log</p> <p>11 entry should be able to tell us; right?</p> <p>12 A. Uh-huh.</p> <p>13 MR. GODWIN: Try and answer yes</p> <p>14 or no, so she --</p> <p>15 A. Yes. I'm sorry.</p> <p>16 MR. GODWIN: -- can take</p> <p>17 everything down on the record. You're</p> <p>18 doing great. You're doing a great job.</p> <p>19 Q. Now, I know you were just</p> <p>20 outside of Andalusia at the time of the</p> <p>21 wreck; correct?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you recall why you were in</p>	<p>1 was about out of hours, so we pulled to</p> <p>2 the side of the road and we switched</p> <p>3 drivers, did our logbooks, and I took off.</p> <p>4 And we were -- at that point, we were at</p> <p>5 an area where the roads were getting</p> <p>6 narrower and smaller and we were past</p> <p>7 where we needed to go. And it was really</p> <p>8 pitch black out. And I didn't want to</p> <p>9 continue down that road not knowing where</p> <p>10 the road went and how small it would get</p> <p>11 or residential it would get. So we</p> <p>12 determined we needed to make a U-turn.</p> <p>13 And I pulled around and looked in my</p> <p>14 mirror, rearview mirror on the side,</p> <p>15 driver's side, and there was nothing</p> <p>16 coming. And, like I said, it was misting.</p> <p>17 The roads were wet. It was pitch black.</p> <p>18 I could see nothing. I could see no</p> <p>19 lights coming or no vehicles coming. So I</p> <p>20 made a left turn into the -- onto the tar</p> <p>21 strip in the median. And I stopped before</p> <p>22 I went across to see if there was oncoming</p> <p>23 traffic. And at that point, I heard tires</p>

12 (Pages 45 to 48)

## FREEDOM COURT REPORTING

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<p>1 squealing and looked out the window and  2 saw his vehicle at that point. And he  3 went into me.  4 Q. All right. This gentleman that  5 was a student, Jose Pagan?  6 A. Uh-huh.  7 Q. Do you know if he's driving for  8 Swift Transportation now?  9 A. I don't believe he is, no, sir.  10 Q. Do you know, did he -- did he  11 ever drive for Swift Transportation  12 besides as a student?  13 A. I don't know that.  14 Q. Do you know if he's driving for  15 someone today?  16 A. I have no idea.  17 Q. It sounds like Mr. Pagan had  18 been driving earlier in the day?  19 A. Yes, sir.  20 Q. I take it he's permitted to do  21 that?  22 A. Certainly.  23 Q. Do you recall where you had</p>	<p>1 Q. Okay. Was that why pulled  2 over --  3 A. Yes.  4 Q. -- on the side of the road?  5 A. Yes. Well, both -- both  6 reasons. One, we needed to turn around;  7 and, two, he was out of hours and we were  8 going to switch drivers.  9 Q. Was he already out of hours?  10 A. No. No.  11 Q. Now, when Jose is driving, Mr.  12 Pagan is driving as a student driver, is  13 he keeping up with a logbook as well?  14 A. Certainly.  15 Q. So you would have a logbook and  16 he would have a logbook?  17 A. Certainly. Yes.  18 Q. And at some point -- it was  19 evening when the wreck happened; right?  20 A. Yes.  21 Q. It was nighttime; is that  22 right?  23 A. Yes.</p>
Page 50	Page 52
<p>1 been earlier that day?  2 A. No, sir.  3 Q. But as you start identifying  4 the place where you're going to make your  5 pickup the next morning, y'all realize  6 that Mr. Pagan is almost out of hours --  7 A. Uh-huh.  8 Q. -- is that what you said?  9 A. Yes.  10 Q. Can you tell me what you mean  11 by that?  12 A. You only can drive for eleven  13 hours in a row. And he was running low  14 and getting tired, so I -- I was going to  15 replace him.  16 Q. All right. Had you driven at  17 all earlier that day?  18 A. No.  19 Q. So, at what point, if you can  20 recall, did y'all realize that Jose was,  21 Mr. Pagan, was getting close on being out  22 of hours?  23 A. Right around that time.</p>	<p>1 Q. Y'all pulled off on the side of  2 the road for two reasons; one, it seems  3 like you're going in the wrong direction;  4 right?  5 A. Yes.  6 Q. And secondly is that Mr. Pagan  7 is getting close to being out of hours?  8 A. Yes.  9 Q. Who pulled the vehicle over on  10 the side of the road?  11 A. He did.  12 Q. And then did you take the  13 driver's seat at some point?  14 A. Yes.  15 Q. Was Mr. Pagan driving at the  16 time of the wreck?  17 A. No.  18 Q. Y'all had already switched?  19 A. Yes.  20 Q. How long would you say that you  21 had sat there on the side of the road?  22 A. Just a couple minutes. I don't  23 know exactly, but not very long. Just</p>

13 (Pages 49 to 52)

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1 long enough to stop the truck, do the  
2 logbook and take off again.  
3 Q. Okay. So when Mr. Pagan pulled  
4 over on the side of the road, he completed  
5 his logbook entry?  
6 A. That's correct.  
7 Q. And you picked up showing that  
8 you were now driving on your logbook?  
9 A. That's correct.  
10 Q. And that's something you had  
11 completed prior to the wreck?  
12 A. Yes. Yes.  
13 Q. Now, did y'all do anything in  
14 the vehicle to figure out where you were  
15 supposed to be going?  
16 A. No. Not at that point, no.  
17 Q. How were y'all going to figure  
18 out where the location was that you were  
19 looking for?  
20 A. We were -- well, we were going  
21 to turn around and head back and find a  
22 place to park and call them in the morning  
23 because we couldn't find the location. So

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1 we were just going to wait until they  
2 opened in the morning and call.  
3 Q. Okay. Were y'all running a  
4 little behind that day?  
5 MR. GODWIN: Object to the  
6 form.  
7 A. No.  
8 Q. And what I mean by that is,  
9 were you supposed to pick up the load that  
10 day, the day of the wreck as opposed to  
11 the next morning?  
12 A. No. I was supposed to pick it  
13 up the next morning.  
14 Q. All right. I know as you sit  
15 here today, it doesn't appear that you're  
16 wearing any glasses, but I see you've got  
17 some in your pocket.  
18 A. Uh-huh.  
19 Q. Is that correct?  
20 A. That is correct.  
21 Q. Going back to the time of this  
22 wreck, did you wear glasses then?  
23 A. I don't wear glasses as a rule

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1 to see. I wear them for reading --  
2 Q. Okay.  
3 A. -- close-up.  
4 Q. I know you say you don't wear  
5 them. Are you supposed to wear them while  
6 you're driving?  
7 A. No, sir.  
8 Q. Do you have any restrictions  
9 about your vision?  
10 A. No, sir. None.  
11 Q. Let me ask you a couple of  
12 questions about the road you were on. I  
13 recall seeing, I think, it's Highway 84.  
14 A. Yes, sir.  
15 Q. Does that sound correct to you?  
16 A. That's right.  
17 Q. Is that a four-lane highway?  
18 A. Yes, it is.  
19 Q. And you would have been parked  
20 over on the side of the road and not in  
21 any of the lanes?  
22 A. That's correct.  
23 Q. All right. So your plan was

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1 you were just going to turn the vehicle  
2 around and go -- make a U-turn?  
3 A. Well, yes.  
4 Q. Had you gone down the road at  
5 all to do that or were you trying to make  
6 the U-turn from where you were parked?  
7 A. No. I pulled out -- we weren't  
8 at the point of turning where we parked.  
9 I pulled out onto the road and went a  
10 short distance, and then made the turn.  
11 Q. Can you give me an idea of what  
12 that short distance would have been?  
13 A. No, sir, not really.  
14 Q. Do you think it would have been  
15 as much as a half a mile?  
16 A. I really don't know. I don't  
17 really don't know how to answer that.  
18 Q. Okay. When did you first see  
19 the vehicle where my clients were?  
20 A. After I had completed the turn  
21 and was in the middle of the median up  
22 with the nose of the tractor right at the  
23 oncoming -- right at the -- before the

14 (Pages 53 to 56)



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 57</p> <p>1 oncoming traffic from the other direction.  2 And as I got that turn made, I heard the  3 squealing of the tires, looked out the  4 window and saw that car at that point.  5 Q. Okay. So your testimony is  6 that you didn't see them until your  7 tractor was in the median?  8 A. That's correct.  9 Q. Now, did you try to make that  10 U-turn from the far right lane?  11 MR. GODWIN: Object to form.  12 Go ahead and answer.  13 Q. Do you know what I mean?  14 A. Yes.  15 Q. Okay. There's two lanes going  16 on --  17 A. That's correct.  18 Q. -- each side of Highway 84.  19 A. Yes.  20 Q. Which lane --  21 A. I was in the right lane.  22 MR. GODWIN: Let him finish his  23 question first.</p>	<p style="text-align: right;">Page 59</p> <p>1 Q. Okay. Do you know what lane  2 the Lawsons were in as they approached  3 your vehicle?  4 A. Yes. They were on the inside  5 lane.  6 Q. Now, do you recall speaking to  7 any of the police officers out at the  8 scene that night?  9 A. Yes.  10 Q. Do you recall how many of the  11 police officers were -- or how many police  12 officers were at the scene?  13 A. No. I spoke with one.  14 Q. Do you recall anything about  15 him by description?  16 A. No, not really.  17 Q. Did you tell him what happened?  18 A. Yes, I did.  19 Q. Did you provide him any kind of  20 written statement?  21 A. No, sir.  22 Q. What do you recall telling the  23 police officer about how the wreck</p>
<p style="text-align: right;">Page 58</p> <p>1 Q. So you were making the U-turn  2 from the far right lane?  3 A. Yes.  4 Q. Not from the inside lane?  5 A. Right.  6 Q. Okay. Why is that?  7 A. Because I needed the room to  8 make the turn.  9 Q. All right. And you're saying  10 that -- just so I understand -- that you  11 did not see the vehicle that the Lawsons  12 were in until your tractor was in the --  13 it was in the median?  14 A. Yes, sir.  15 Q. All right. And so I guess if  16 your tractor is in the median, that means  17 your trailer is probably taking up both  18 the right and the left lane?  19 MR. GODWIN: Object to form.  20 A. No, it wasn't completely. It  21 was taking up the left lane and part of  22 the right lane, but not the whole right  23 lane.</p>	<p style="text-align: right;">Page 60</p> <p>1 happened?  2 A. I recall telling him exactly  3 what I just told you.  4 Q. You haven't reviewed the  5 testimony that the officer has provided in  6 this case?  7 A. I -- yeah, we discussed it.  8 MR. GODWIN: He doesn't have  9 any right to know --  10 MR. GLOVER: Sure.  11 MR. GODWIN: -- what we  12 discussed.  13 A. Well, okay.  14 Q. Have you reviewed it your  15 yourself, though? Have you looked at the  16 testimony?  17 A. No.  18 MR. GODWIN: Matt, when you get  19 to a breaking point --  20 MR. GLOVER: Great time right  21 now.  22 MR. GODWIN: Is it?  23 MR. GLOVER: Yeah. I need a</p>

15 (Pages 57 to 60)

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<p style="text-align: right;">Page 61</p> <p>1 refill.</p> <p>2 (Whereupon, a short break was</p> <p>3 taken.)</p> <p>4 Q. (BY MR. GLOVER:) Mr. Martin, I</p> <p>5 want to give you the opportunity to review</p> <p>6 a question and answer. And by all means,</p> <p>7 you have a right to look at as much</p> <p>8 information as you want. I'm not trying</p> <p>9 to trick you. I just -- I want you to</p> <p>10 look at what the officer has testified</p> <p>11 about concerning his interview with you</p> <p>12 that night.</p> <p>13 A. Uh-huh.</p> <p>14 Q. And just to look at it, and I</p> <p>15 want to ask you a few questions about it.</p> <p>16 MR. GODWIN: May I see --</p> <p>17 MR. GLOVER: Sure.</p> <p>18 MR. GODWIN: -- what part</p> <p>19 you're asking him to take at look at?</p> <p>20 MR. GLOVER: He can look at all</p> <p>21 of it, but if you want on the right --</p> <p>22 here, let me show you.</p> <p>23 MR. GODWIN: The tabbed</p>	<p style="text-align: right;">Page 63</p> <p>1 telling me today?</p> <p>2 A. Yes.</p> <p>3 Q. Do you think the officer is</p> <p>4 wrong about this?</p> <p>5 A. Yes.</p> <p>6 Q. And just so we know what we're</p> <p>7 talking about here, according to the</p> <p>8 officer, you informed him that you saw the</p> <p>9 Lawson car sometime before the wreck</p> <p>10 occurred? I mean, you recognize that in</p> <p>11 the answer; right?</p> <p>12 A. That's what --</p> <p>13 Q. That he provided?</p> <p>14 A. That's what he says, yes.</p> <p>15 Q. But you're saying that's not</p> <p>16 accurate?</p> <p>17 A. That's true. That's not</p> <p>18 accurate.</p> <p>19 MR. GODWIN: Object to the form</p> <p>20 to the extent that I think it</p> <p>21 mischaracterizes some of his prior</p> <p>22 testimony today.</p> <p>23 Q. I know earlier you said that</p>
<p style="text-align: right;">Page 62</p> <p>1 portion?</p> <p>2 MR. GLOVER: Well, that's just</p> <p>3 the page. It says "And what did he tell</p> <p>4 you happened?"</p> <p>5 MR. GODWIN: Okay.</p> <p>6 MR. GLOVER: And then the</p> <p>7 answer.</p> <p>8 MR. GODWIN: Thank you.</p> <p>9 (Reviewing document.) Okay. And you're</p> <p>10 asking him to look at his answer?</p> <p>11 MR. GLOVER: Just to, first,</p> <p>12 look at his answer.</p> <p>13 A. Uh-huh</p> <p>14 MR. GODWIN: It starts right</p> <p>15 there, "And what did he tell you</p> <p>16 happened?"</p> <p>17 A. (Reviewing document.)</p> <p>18 Q. (BY MR. GLOVER:) And you've</p> <p>19 had an opportunity to read that?</p> <p>20 A. Yes, I have.</p> <p>21 Q. Do you believe that there are</p> <p>22 some differences in what the officer has</p> <p>23 testified you told him and what you're</p>	<p style="text-align: right;">Page 64</p> <p>1 when you would be involved in a wreck with</p> <p>2 Swift Transportation, that there would be</p> <p>3 a few things that you would need to do out</p> <p>4 at the scene, like take photographs --</p> <p>5 A. That's correct.</p> <p>6 Q. -- for instance?</p> <p>7 A. That's correct.</p> <p>8 Q. Did you do that --</p> <p>9 A. Yes, I did.</p> <p>10 Q. -- in this case?</p> <p>11 A. Yes.</p> <p>12 Q. Did you take the photographs as</p> <p>13 the vehicles were positioned in the road?</p> <p>14 A. Yes, I did.</p> <p>15 Q. Did you take photographs of</p> <p>16 both vehicles involved?</p> <p>17 A. Yes, I did.</p> <p>18 Q. How would you describe for me</p> <p>19 from your recollection the damage that was</p> <p>20 done to the Lawsons' vehicle?</p> <p>21 A. The damage was to the passenger</p> <p>22 side, front end passenger fender,</p> <p>23 passenger door, and corner post, I</p>

16 (Pages 61 to 64)

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1 believe, the windshield. But that was --  
2 I think it was limited to just that.

3 Q. How was the Lawson vehicle  
4 positioned in relation to your transfer  
5 truck?

6 A. My truck was articulated sort  
7 of like this (indicating), and he was into  
8 the trailer with the passenger's fender.

9 Q. Okay. Do you have any judgment  
10 as to the speed that Mr. Lawson was  
11 traveling?

12 A. No, sir.

13 Q. Do you fault Mr. Lawson at all  
14 for what happened?

15 A. Yes, sir, I think I do. I  
16 believe that if he had not panicked and  
17 had pumped his brakes, which is what  
18 you're supposed to do, he could have  
19 steered around. But I think he panicked  
20 and jammed on the brakes, that's my  
21 speculation. That's what it appeared to  
22 be. He just jammed them on, locked it up,  
23 and turned and slid into my truck.

1 I guess it could be anybody's.

2 Q. It seems like you were a little  
3 quicker to blame Mr. Lawson and find fault  
4 with what he did as opposed --

5 A. No, I merely stated what I  
6 thought.

7 Q. Okay.

8 A. I wasn't finding fault. I was  
9 just merely stating I thought that perhaps  
10 he could have done better in the  
11 situation, but --

12 Q. What could you have done  
13 different, perhaps better, given the  
14 situation?

15 A. Well, I don't know quite  
16 frankly, but, you know, hindsight being  
17 what it is, I -- it's now time to think if  
18 I might have done other things. But at  
19 that time and that place, it appeared to  
20 be the thing I needed to do. Because I  
21 was heading out of town, the roads were  
22 getting smaller. And when the roads get  
23 smaller, it means you're going in a

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1 Q. How do you know he panicked?

2 A. I don't. I don't. I'm saying  
3 pure speculation.

4 Q. How do you know he didn't pump  
5 his brakes?

6 A. Because it was just one sound  
7 is all I heard.

8 Q. That's your basis for saying  
9 that?

10 A. I heard -- yes, sir. I heard  
11 the tires squealing, looked out and saw  
12 the car.

13 Q. You believe that Mr. Lawson  
14 should have been able to go to the right  
15 and avoid your trailer?

16 A. Yes, sir, I think he could  
17 have.

18 Q. Do you place any fault on  
19 yourself for this wreck?

20 MR. GODWIN: Object to the  
21 form.

22 A. I -- I really don't know. I  
23 just -- it's a matter of interpretation.

1 residential area where you're probably not  
2 going to be able to turn around. So I  
3 deemed it necessary at that point to turn  
4 around.

5 Q. And y'all had been on the road  
6 for about eleven hours that day?

7 MR. GODWIN: Object to the  
8 form.

9 Q. Is that right?

10 MR. GODWIN: Same objection.

11 A. I'm not sure. I don't know how  
12 long it was. I have no way of knowing  
13 these things.

14 Q. When you're over there on the  
15 far right side making a conscious decision  
16 to do a U-turn across two lanes, did you  
17 look in the rearview mirror to see if a  
18 car was coming?

19 MR. GODWIN: Object to the form  
20 of the question. Go ahead and answer, if  
21 you can.

22 A. I wasn't in the passenger seat  
23 making the decision to --

17 (Pages 65 to 68)



## FREEDOM COURT REPORTING

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1 Q. No, I don't know if I said -- I  
2 sure didn't mean to say passenger seat if  
3 I did.  
4 A. I thought that's what you said,  
5 but I'm not sure either.  
6 Q. When you were over on the side  
7 of the road and you made the conscious  
8 decision to make a U-turn from the right  
9 lane and cross over another lane into the  
10 median, did you look in your rearview  
11 mirror to see if a car was coming?  
12 A. Yes.  
13 MR. GODWIN: Object to the form  
14 of the question.  
15 Q. And do you have any explanation  
16 for why you didn't see the car coming?  
17 A. No, sir, I have no idea why I  
18 couldn't see it. As I said, it was pitch  
19 black. I should have seen the lights if  
20 they were -- if they weren't at an angle  
21 behind a hill or something. I don't know.  
22 But there was nothing. It was pitch  
23 black. There was no light. And so I had

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1 no reason to believe there was a car  
2 there.  
3 Q. Did you have an opportunity to  
4 speak to either of the Lawson boys that  
5 night?  
6 A. Well, yes, I did. I spoke to  
7 the passenger, the brother, who was  
8 rational. The -- Scott, the driver, was  
9 crying like a five-year-old girl and just  
10 screaming, what am I going to do? What am  
11 I going to do? My car. And his brother  
12 was, like, calm down. It's just an  
13 accident. It will be okay. And he just  
14 was -- he was ranting and raving and  
15 crying and just carrying on. I -- there  
16 was no talking to him. The police  
17 officers tried to speak with him and  
18 couldn't for a while.  
19 MR. GODWIN: You've answered  
20 the question.  
21 Q. When you got out of your  
22 vehicle and saw the damage that was done  
23 to the Lawson vehicle, did it ever cross

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1 your mind that someone had been killed?  
2 A. No.  
3 Q. Did it look to you to be the  
4 kinds of damage where someone could have  
5 lost their life in the wreck?  
6 A. No.  
7 Q. Did it ever cross your mind  
8 that perhaps the reason, as you say, the  
9 driver was crying like a five-year-old  
10 girl was perhaps because they thought they  
11 had almost lost their life as a result of  
12 the maneuver that you made?  
13 A. I doubt it. Don't know.  
14 Q. You said the passenger was  
15 rational.  
16 A. Uh-huh.  
17 Q. With that explanation, do you  
18 recall anything that he said to you, the  
19 passenger?  
20 A. All he -- yes. The only thing  
21 he said to me was -- well, he said to his  
22 brother, Scott, calm down. It's just an  
23 accident. We're both okay. And Scott

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1 went away and was getting on the  
2 telephone. And the other fellow -- I  
3 don't know his name -- just said, I don't  
4 know what his problem is. It's no big  
5 deal. I don't know what the problem is,  
6 but --  
7 Q. The passenger said that to you?  
8 A. That's correct, yes, sir.  
9 Q. That it was -- it was no big  
10 deal?  
11 A. Yes, sir.  
12 Q. What else, if anything, do you  
13 recall the passenger saying to you?  
14 A. That's all.  
15 Q. Did the passenger ever explain  
16 how the wreck happened?  
17 A. No.  
18 Q. Now, what did the driver say to  
19 you, if anything, that you can recall?  
20 A. Nothing. Nothing at all.  
21 Q. Have you talked to either of  
22 those two gentlemen since the wreck?  
23 A. No.

18 (Pages 69 to 72)

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 73</p> <p>1 Q. Do you know if Jose Pagan had 2 any conversations with either of the 3 Lawson boys? 4 A. I don't know. 5 Q. Have you talked to Jose -- 6 A. No. 7 Q. -- since the night of the 8 wreck? 9 MR. GODWIN: Let him finish his 10 question. 11 Q. Have you talked to Jose Pagan 12 since the night of the wreck? 13 A. No. 14 Q. Now, in addition to taking 15 photographs, I know you said that you 16 would also customarily fill out a 17 narrative, incident report -- 18 A. Yes. 19 Q. -- of how the wreck happened? 20 A. Yes. 21 Q. Did you do that with this 22 wreck? 23 A. Yes.</p>	<p style="text-align: right;">Page 75</p> <p>1 A. No. 2 Q. Have you reviewed it at all 3 since you submitted it to Swift 4 Transportation? 5 A. No. 6 Q. Would you mail that out to the 7 Phoenix office? 8 A. Yes. 9 Q. Did you ever get any feedback 10 from Swift Transportation regarding this 11 wreck? 12 A. No. 13 Q. Do you know if they determined 14 whether it was preventable or not on your 15 part? 16 A. No. 17 Q. They didn't communicate that to 18 you -- 19 A. No. 20 Q. -- one way or the other? Were 21 you issued any warnings as a result of 22 this wreck? 23 A. No.</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. When did you complete that 2 narrative? 3 A. I believe the next morning. 4 Q. Where did you complete that 5 narrative? 6 A. In my truck. 7 Q. Okay. Was Mr. Pagan with you 8 when you completed it? 9 A. Yes. 10 Q. Was anyone else with you? 11 A. No. 12 Q. Had you spoke to any attorneys 13 prior to writing out that narrative? 14 A. No. 15 Q. Had you consulted with any 16 attorneys before filling out that 17 narrative? 18 A. No. 19 Q. Did you submit that incident 20 report to Swift Transportation? 21 A. Yes. 22 Q. Have you reviewed that incident 23 report recently?</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Did you receive any medical 2 treatment from the wreck? 3 A. No. 4 Q. Do you know if Mr. Pagan -- 5 A. No. 6 Q. -- received any treatment? 7 A. Yes, I know. No, he did not. 8 MR. GODWIN: Let him finish. 9 Q. Did Mr. Pagan fill out an 10 incident report? 11 A. No. 12 MR. GODWIN: You're doing fine. 13 I just -- I've got to keep reminding you. 14 THE DEPONENT: That's fine. 15 Yeah, that's fine. 16 Q. Are you on any kind of -- do 17 you take any medication today? 18 A. Yes. 19 Q. This time frame? 20 A. Yes. 21 Q. What type medication do you 22 take? 23 A. I take blood pressure medicine,</p>

19 (Pages 73 to 76)

## FREEDOM COURT REPORTING

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1 arthritis medicine, metformin for  
 2 diabetes.  
 3 Q. What type diabetes do you have?  
 4 A. Type II.  
 5 Q. How long have you had type II  
 6 diabetes?  
 7 A. I -- I don't know exactly, ten,  
 8 twelve years.  
 9 Q. Do you take any insulin for  
 10 that?  
 11 A. No.  
 12 Q. Just medication?  
 13 A. Yes.  
 14 Q. How often do you take the  
 15 medication for your diabetes?  
 16 A. Once a day.  
 17 Q. Back at the time of this wreck,  
 18 which was, you know, this time -- I mean,  
 19 less than a year ago, what type medication  
 20 did you take then?  
 21 A. The same.  
 22 Q. Any additional medications that  
 23 you're not taking now?

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1 A. No.  
 2 Q. Had you taken your medication  
 3 that day?  
 4 A. Not yet, no.  
 5 Q. When do you ordinarily take  
 6 your medication?  
 7 A. At night.  
 8 Q. All your medications are taken  
 9 at night?  
 10 A. All together, yes.  
 11 Q. Do you know if there were any  
 12 witnesses to the wreck besides yourself  
 13 and Mr. Pagan --  
 14 A. Yes.  
 15 Q. -- and the Lawson gentlemen?  
 16 A. Yes, I know that there were  
 17 none.  
 18 Q. No other witnesses?  
 19 A. (Witness shaking head  
 20 negatively.)  
 21 Q. The vehicle that Mr. Pagan had  
 22 been driving that day and that you were  
 23 driving at the time of the wreck, is that

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1 the vehicle that you ordinarily drive for  
 2 Swift Transportation?  
 3 A. It was at that time.  
 4 Q. What I mean by that is, that's  
 5 the tractor-trailer that you had driven in  
 6 the weeks before the wreck, too?  
 7 A. That's correct.  
 8 Q. Mr. Pagan hadn't been assigned  
 9 a vehicle yet by Swift?  
 10 A. That's correct.  
 11 Q. Did you submit to any drug or  
 12 alcohol test after the wreck?  
 13 A. No.  
 14 Q. Is that something you  
 15 ordinarily do when you're involved in a  
 16 wreck driving a transfer truck?  
 17 A. It is up to the company to ask  
 18 for one or not. And in this case, they  
 19 didn't.  
 20 Q. When did you first report the  
 21 wreck to your company?  
 22 A. Well, immediately. I mean, we  
 23 send in a macro on the Qualcomm computer.

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1 Q. And what type information do  
 2 you provide Swift when you've been in a  
 3 wreck by Qualcomm?  
 4 A. It's just a canned statement  
 5 that says, attention safety, I have been  
 6 in an accident. It was at this place at  
 7 this time and give a brief description.  
 8 Q. Okay. Did you do that that  
 9 night?  
 10 A. Yes.  
 11 Q. And is that description -- that  
 12 is a different type description than  
 13 filling out the incident report?  
 14 MR. GODWIN: Object to the  
 15 form.  
 16 Q. Is that correct?  
 17 A. No. Really, it's the same.  
 18 You describe it the same way.  
 19 Q. No. I didn't mean it that way.  
 20 I meant that you provide a notification to  
 21 the company --  
 22 A. I provide --  
 23 Q. -- which includes a

20 (Pages 77 to 80)

## FREEDOM COURT REPORTING

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1 description, and then you also later fill  
 2 out an incident report?  
 3 A. That's correct.  
 4 Q. Okay. And you believe that you  
 5 sent in the Qualcomm notification on the  
 6 night of the wreck?  
 7 A. Yes.  
 8 Q. Did you speak to anyone at  
 9 Swift Transportation that night about the  
 10 wreck besides Jose Pagan?  
 11 A. No.  
 12 Q. Are you supposed to call anyone  
 13 on the day of the wreck?  
 14 A. You send in the macro on the  
 15 Qualcomm. That is communicating with  
 16 them.  
 17 Q. Okay. I mean, how would you be  
 18 notified if they wanted you to submit to a  
 19 blood or -- I mean, a drug or alcohol  
 20 test?  
 21 A. They would send me back a  
 22 message to either call in or to go to a  
 23 certain place, and they would advise me

1 A. I have no idea. The  
 2 accident -- the people in safety, the  
 3 safety department.  
 4 Q. They contacted you?  
 5 A. Yes.  
 6 Q. What do you recall about that?  
 7 A. I don't really recall anything  
 8 about it. We spoke about the accident,  
 9 went over what happened.  
 10 Q. Do you know if that was  
 11 recorded?  
 12 A. No, I don't.  
 13 Q. And that is separate from the  
 14 incident report that you provided?  
 15 A. Yes, sir.  
 16 Q. And that was -- someone called  
 17 you from safety out at Phoenix?  
 18 A. Phoenix.  
 19 Q. Did you ever speak to anyone  
 20 else about the wreck from Swift?  
 21 A. No.  
 22 Q. Can I see your driver's license  
 23 and your medical card?

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Page 84

1 where to go.  
 2 Q. Do you know why they did not  
 3 ask you or Mr. Pagan to submit to a drug  
 4 and alcohol test that night?  
 5 A. I cannot speculate as to why  
 6 they would or wouldn't.  
 7 Q. Had you been drinking anything  
 8 that day?  
 9 A. No, sir.  
 10 Q. What about Mr. Pagan, had he  
 11 been --  
 12 A. No, sir.  
 13 Q. Same question, taken any kind  
 14 of drug at all on the day of the wreck?  
 15 A. No, sir.  
 16 Q. What about Mr. Pagan; do you  
 17 know?  
 18 A. No, sir. I mean, not to my  
 19 knowledge.  
 20 Q. Did you speak to anyone the  
 21 following day from Swift about the wreck?  
 22 A. Yes.  
 23 Q. Who did you speak to?

1 MR. GLOVER: Chad, can I have  
 2 copies of both of these?  
 3 MR. GODWIN: Absolutely.  
 4 MR. GLOVER: And then I'll  
 5 review my notes and I -- I'm getting  
 6 really close to being done.  
 7 MR. GODWIN: Okay.  
 8 (Whereupon, a short break was  
 9 taken.)  
 10 MR. GLOVER: I just have a few  
 11 more. Do you want me to go ahead?  
 12 MR. GODWIN: That's fine.  
 13 Q. (BY MR. GLOVER:) Mr. Martin,  
 14 do you receive any of your treatment for  
 15 diabetes from the VA medical doctors?  
 16 A. Yes.  
 17 Q. Do you know which doctor treats  
 18 you for your diabetic condition?  
 19 A. Dr. Sriharan right now is my  
 20 current doctor.  
 21 Q. Did you take an application --  
 22 did you complete an application with Swift  
 23 Transportation?

21 (Pages 81 to 84)

## FREEDOM COURT REPORTING

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1 A. Yes.

2 Q. Did you notify them of your  
3 diabetic condition?

4 A. Yes.

5 Q. Okay. And your understanding  
6 is the kind of diabetic condition you have  
7 does not prohibit you from driving?

8 A. That's correct.

9 Q. All right. Have you talked to  
10 anybody since the night of the wreck who  
11 has claimed to represent the Lawson  
12 brothers in any way?

13 A. No.

14 Q. Okay. And you haven't talked  
15 to them -- the Lawson brothers at all  
16 since the night of the wreck?

17 A. That's correct.

18 Q. Okay. All right. Well, I  
19 thank you for your time today.

20

21 FURTHER THE DEPONENT SAITH NOT

22

23

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### 1 CERTIFICATE

2

3 STATE OF ALABAMA)

4 SHELBY COUNTY )

5

6 I, Maya Rose, Court Reporter, do  
7 hereby certify that I recorded by means of  
8 stenotype the foregoing proceedings at the  
9 time and place stated in the caption  
10 hereof. That later, under my supervision,  
11 the proceedings were transcribed by means  
12 of computer-aided transcription, and the  
13 foregoing represents a full, true, and  
14 correct transcript of the proceedings on  
15 said occasion.

16 I further certify that I am  
17 neither of counsel nor of kin to any  
18 parties of said cause, nor am I in any  
19 manner interested in the result thereof.

20

21

22

23

Maya Rose - ACCR# 242

22 (Pages 85 to 86)

**367 VALLEY AVENUE**  
**(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**



## FREEDOM COURT REPORTING

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<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4</p> <p>5</p> <p>6 SCOTT D. LAWSON and</p> <p>7 STEVEN LAWSON,</p> <p>8 Plaintiffs,</p> <p>9 vs. CASE NO. 2:07cv356-MHT</p> <p>10 SWIFT TRANSPORTATION</p> <p>11 CO., INC., and</p> <p>12 FREDRICK S. MARTIN, JR.,</p> <p>13 Defendants.</p> <p>14 *****</p> <p>15 DEPOSITION OF STEVEN FRANCIS McGOWIN, taken</p> <p>16 pursuant to stipulation and agreement before Sherry</p> <p>17 McCaskey, Certified Court Reporter and Commissioner</p> <p>18 for the State of Alabama at Large, in the Law</p> <p>19 Offices of Jones &amp; Jones, 530 East Three Notch</p> <p>20 Street, Andalusia, Alabama, on Tuesday, October 23,</p> <p>21 2007, commencing at approximately 10:15 a.m.</p> <p>22 *****</p> <p>23</p>	<p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and agreed by and</p> <p>3 between counsel representing the parties that the</p> <p>4 deposition of STEVEN FRANCIS McGOWIN is taken</p> <p>5 pursuant to stipulation and agreement; that all</p> <p>6 formalities with respect to procedural requirements</p> <p>7 are waived; that said deposition may be taken before</p> <p>8 Sherry McCaskey, Certified Court Reporter and</p> <p>9 Commissioner for the State of Alabama at Large,</p> <p>10 without the formality of a commission; that</p> <p>11 objections to questions other than objections as to</p> <p>12 the form of the questions need not be made at this</p> <p>13 time but may be reserved for a ruling at such time</p> <p>14 as the deposition may be offered in evidence or used</p> <p>15 for any other purpose as provided for by the Alabama</p> <p>16 Rules of Civil Procedure.</p> <p>17 It is further stipulated and agreed by and</p> <p>18 between counsel representing the parties that the</p> <p>19 filing of the deposition is hereby waived and that</p> <p>20 the deposition may be introduced at the trial of</p> <p>21 this case or used in any manner by either party</p> <p>22 hereto provided for by the Statute.</p> <p>23 It is further stipulated and agreed by and</p>
Page 2	Page 4
<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 JOSHUA P. HAYES, ESQUIRE</p> <p>4 Prince Glover Law</p> <p>5 Attorneys at Law</p> <p>6 I Cypress Point</p> <p>7 701 Rice Mine Road N.</p> <p>8 Tuscaloosa, Alabama 35406</p> <p>9</p> <p>10 JOHN F. JONES, JR., ESQUIRE</p> <p>11 Jones &amp; Jones, P.C.</p> <p>12 Attorneys at Law</p> <p>13 530 East Three Notch Street</p> <p>14 Andalusia, Alabama 36420</p> <p>15</p> <p>16 FOR THE DEFENDANTS:</p> <p>17 LEA RICHMOND, IV, ESQUIRE</p> <p>18 Carr, Allison, Pugh,</p> <p>19 Howard, Oliver &amp; Sisson, P.C.</p> <p>20 Attorneys at Law</p> <p>21 100 Vestavia Parkway</p> <p>22 Birmingham, Alabama 35216</p> <p>23 *****</p> <p>24 EXAMINATION INDEX</p> <p>25 STEVEN FRANCIS McGOWIN</p> <p>26 BY MR. HAYES 4</p> <p>27 BY MR. RICHMOND 30</p> <p>28</p> <p>29 EXHIBIT INDEX</p> <p>30 PLAINTIFFS' EXHIBIT NO.:</p> <p>31 1 Accident report 28,29,30</p> <p>32 51,60</p> <p>33</p>	<p>1 between the parties hereto and the witness that the</p> <p>2 signature of the witness to this Deposition is</p> <p>3 hereby waived.</p> <p>4 *****</p> <p>5 STEVEN FRANCIS McGOWIN</p> <p>6 The witness, having first been duly sworn to</p> <p>7 speak the truth, the whole truth and nothing but the</p> <p>8 truth, testified as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. HAYES:</p> <p>11 Q. Officer McGowin, we met just a few minutes</p> <p>12 ago, but I'm Josh Hayes. I practice law in</p> <p>13 Tuscaloosa. And Matt Glover at my firm as</p> <p>14 well as John Jones represent the Lawsons who</p> <p>15 have filed a lawsuit in federal court</p> <p>16 concerning an accident that you investigated.</p> <p>17 So we're going to be asking you some general</p> <p>18 questions this morning about your background</p> <p>19 and training, and then we'll also ask you</p> <p>20 about that accident. If at any point I ask</p> <p>21 you a question which you don't understand,</p> <p>22 which I'm prone to do by the way, if you'll</p> <p>23 just let me know and I'll try to rephrase it.</p>

1 (Pages 1 to 4)

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## FREEDOM COURT REPORTING

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<p>1 I don't think we'll be here very long this</p> <p>2 morning, but if you want a break at any point,</p> <p>3 this is certainly not a marathon, so we'll be</p> <p>4 glad to take a break.</p> <p>5 Will you please state your full name for</p> <p>6 the Record?</p> <p>7 A. Steven Francis McGowin, M-C-G-O-W-I-N.</p> <p>8 Q. Mr. McGowin, where are you employed?</p> <p>9 A. With the City of Andalusia as a police</p> <p>10 officer.</p> <p>11 Q. Did you grow up in Andalusia?</p> <p>12 A. No, I didn't grow up in Andalusia. I was born</p> <p>13 here. My father, during my youth, was in the</p> <p>14 Marine Corps and traveled back and forth from</p> <p>15 wherever he was stationed at. And then when</p> <p>16 he was deployed, we would occasionally live in</p> <p>17 Andalusia.</p> <p>18 Q. Where did you graduate from high school?</p> <p>19 A. Camp Lejeune, North Carolina, Camp Lejeune</p> <p>20 High School.</p> <p>21 Q. And then what did you do after high school?</p> <p>22 A. I went into the service. I went into the</p> <p>23 Army. I spent four years as a infantryman and</p>	<p>1 Affairs, National Security Council, National</p> <p>2 Security Agency, DEA, and then several other</p> <p>3 organizations.</p> <p>4 Q. What kind of training have you had over the</p> <p>5 years as a police officer?</p> <p>6 A. I've gone through the military police</p> <p>7 academy. I went through the Montgomery Police</p> <p>8 Academy in 1983, graduating second in my</p> <p>9 class. Then maintaining my required credits</p> <p>10 by APOST, which is Alabama Peace Officers</p> <p>11 Standards and Training Commission, throughout</p> <p>12 the years. And then upon returning to full</p> <p>13 military service -- excuse me -- full law</p> <p>14 enforcement service, I went back to the</p> <p>15 Montgomery Police Academy and graduated number</p> <p>16 one in my class during that time period. That</p> <p>17 was in 2005 -- either 2004 or 2005.</p> <p>18 Then during my time period while I was in</p> <p>19 the military, in addition to the military</p> <p>20 police academies that I attended, there were</p> <p>21 numerous courses that I had completed, to</p> <p>22 include traffic accident investigator's</p> <p>23 course, traffic accident reconstruction</p>
Page 6	Page 8
<p>1 a military policeman. Got out of the Marine</p> <p>2 Corps, came to Andalusia, was a police officer</p> <p>3 for several years. Went back into the service</p> <p>4 as a -- as a Marine, started out as an</p> <p>5 infantryman, went into special operations, and</p> <p>6 then retired as a gunnery sergeant in special</p> <p>7 operations, intelligence, counter terrorism</p> <p>8 intelligence.</p> <p>9 Q. How many years combined have you served as</p> <p>10 either a military police officer or a police</p> <p>11 officer in the civilian world?</p> <p>12 A. Off and on since 1979, probably pretty close</p> <p>13 to about 25, 26 years of some type of law</p> <p>14 enforcement.</p> <p>15 During the time period that I was in the</p> <p>16 Marine Corps, I was a reserve officer here in</p> <p>17 the city of Andalusia. So when I would come</p> <p>18 back, I would work as a reserve officer. Then</p> <p>19 during my time period in the Marine Corps, I</p> <p>20 did a tremendous amount of work with -- with</p> <p>21 what would be referred as the alphabets, which</p> <p>22 would be FBI, US Secret Service, Diplomatic</p> <p>23 Security Service, the CIA, Office of Military</p>	<p>1 specialist course. Both of those were done</p> <p>2 in -- while I was stationed in Germany.</p> <p>3 Q. Can I stop you for just a moment and ask you</p> <p>4 about those two things? Did you receive</p> <p>5 certification from either of those?</p> <p>6 A. Yes, I did. From U.S. Army traffic accident</p> <p>7 investigator's course and the U.S. Army's</p> <p>8 traffic accident reconstruction course. Both</p> <p>9 of those were taught by instructors from the</p> <p>10 Traffic Institute at Northwestern University.</p> <p>11 Q. Okay. I'm sorry to interrupt. Were you --</p> <p>12 A. And then I received numerous training and --</p> <p>13 from the FBI, from the Secret Service, and</p> <p>14 then from my work with the Office of Military</p> <p>15 Affairs with the CIA.</p> <p>16 Q. How many traffic accidents would you say you</p> <p>17 have investigated over your tenure?</p> <p>18 A. Everything from a fatality to a fender bender,</p> <p>19 I would say probably in excess of 150 or so</p> <p>20 traffic accidents. Fatalities, I've worked</p> <p>21 probably five -- between five and seven</p> <p>22 fatalities. Major traffic accidents with</p> <p>23 serious injury, I would say probably in the</p>

2 (Pages 5 to 8)

## FREEDOM COURT REPORTING

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<p>1 neighborhood of 25, maybe -- maybe as many as</p> <p>2 30.</p> <p>3 Q. Besides your experience as a police officer,</p> <p>4 do you have any other kind of work-related</p> <p>5 experience?</p> <p>6 A. In what field?</p> <p>7 Q. Well, what else have you done besides being a</p> <p>8 police officer? Let me ask it that way.</p> <p>9 A. For a time period, I was the shop foreman for</p> <p>10 Massey Automotive. Upon initially retiring</p> <p>11 out of the Marine Corps, I worked for Al</p> <p>12 Thompson Trucking, which is a tanker company</p> <p>13 out of Chester, South Carolina. And for two</p> <p>14 years, I pulled chemicals in a tanker.</p> <p>15 Q. Did you have a CDL at that time?</p> <p>16 A. I still have the class A CDL.</p> <p>17 Q. So it's fair to say, then, that you have</p> <p>18 experience both from driving a truck and</p> <p>19 investigating acts involving trucks?</p> <p>20 A. Yes, sir, I do.</p> <p>21 Q. Why don't you tell us -- now I think we'll</p> <p>22 just move on to this accident we're here</p> <p>23 talking about today which happened March 15th</p>	<p>1 Q. Were the roads wet?</p> <p>2 A. Yes, they were.</p> <p>3 Q. Tell us what you saw when you first got to the</p> <p>4 accident scene. Well, let me back up. Where</p> <p>5 was the accident? Was it in the city of</p> <p>6 Andalusia?</p> <p>7 A. It was -- yes, within the city limits of</p> <p>8 Andalusia on Highway 84. It would have been</p> <p>9 in the vicinity of Ireland Trailers. There</p> <p>10 was turn spot there at Ireland trailers where</p> <p>11 Shreve Road -- where you would turn onto</p> <p>12 Shreve Road, and that's where the accident had</p> <p>13 occurred at. And it occurred on Highway 84.</p> <p>14 Q. All right. What did you see when you first</p> <p>15 got to the accident scene?</p> <p>16 A. When I first got there, I noticed the position</p> <p>17 of the trailer and the tractor. And noticed</p> <p>18 that the trailer was completely covering the</p> <p>19 inside lane of Highway 84 East and had -- and</p> <p>20 actually, if I remember, the very end edge of</p> <p>21 the trailer was actually in the outside lane</p> <p>22 of Highway 84 East. And I immediately noticed</p> <p>23 that there was a car partially underneath the</p>
Page 10	Page 12
<p>1 of 2007.</p> <p>2 How did you first learn that there was an</p> <p>3 accident that you needed to investigate?</p> <p>4 A. We were at shift change. Our shift change</p> <p>5 occurs between 1850 or 6:50 in the evening to</p> <p>6 about 1910 to 1915 which would be 7:15. And</p> <p>7 while we were at the end of shift change, we</p> <p>8 received notification of a traffic accident on</p> <p>9 the eastern side of town. That particular</p> <p>10 evening, I was working that particular</p> <p>11 sector. And because of my background, I'm</p> <p>12 normally dispatched to almost all of the</p> <p>13 roadway traffic accidents that we have. So I</p> <p>14 was dispatched to this traffic accident on</p> <p>15 Highway 84 East.</p> <p>16 Q. And that would have been sometime around 7,</p> <p>17 7:30 in the evening?</p> <p>18 A. It would -- I would have been dispatched</p> <p>19 probably around 7:15'ish.</p> <p>20 Q. Do you remember what the weather was like that</p> <p>21 night?</p> <p>22 A. It had been raining for most of the afternoon,</p> <p>23 if I remember.</p>	<p>1 center portion of the trailer.</p> <p>2 Q. Was the tractor part in a median turn lane or</p> <p>3 the intersection?</p> <p>4 A. The tractor would have been, yes.</p> <p>5 Q. And the trailer would have been covering all</p> <p>6 of the left lane and portions of the right</p> <p>7 lane?</p> <p>8 A. A very small portion of the right lane, if at</p> <p>9 all. But it seemed like it was just like the</p> <p>10 very edge of the trailer was in the -- in the</p> <p>11 outside lane.</p> <p>12 Q. All right. After you made those initial</p> <p>13 perceptions, what was the first thing you did</p> <p>14 when you got on the scene?</p> <p>15 A. Check to see if anyone was killed.</p> <p>16 Q. And what was your determination on that?</p> <p>17 A. It turned out that neither of the -- the</p> <p>18 persons in the car had received any</p> <p>19 life-threatening injuries as a result of the</p> <p>20 accident.</p> <p>21 Q. Why did it occur to you to check to see if</p> <p>22 anybody was killed?</p> <p>23 A. The position of the car. The car was -- the</p>

3 (Pages 9 to 12)



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<p>1 whole front end of the car, all the way up to</p> <p>2 a portion of the windshield was actually</p> <p>3 underneath the trailer. And from my vantage</p> <p>4 point of driving up behind it, it -- it looked</p> <p>5 as though the vast majority of the passenger</p> <p>6 compartment was underneath the trailer as the</p> <p>7 top of the car had been sheared -- partially</p> <p>8 sheared. It wasn't until I actually got to</p> <p>9 the car that I realized that it was all the</p> <p>10 way up to and including the windshield.</p> <p>11 Q. What did you do after you checked to see that</p> <p>12 no one was killed?</p> <p>13 A. Then I -- I checked to see if there were any</p> <p>14 serious injuries of the parties involved. It</p> <p>15 seems like they were still inside the vehicle</p> <p>16 or at least one of them was still inside the</p> <p>17 vehicle when I arrived there. Rescue squad</p> <p>18 was not far behind me. As soon as the rescue</p> <p>19 squad and other units arrived and I</p> <p>20 established a traffic pattern, I turned back</p> <p>21 to identify who was the driver of the two</p> <p>22 vehicles.</p> <p>23 Q. What do you mean by establish a traffic</p>	<p>1 injuries; damage to property, other than the</p> <p>2 vehicles; and then to attempt to -- attempt to</p> <p>3 determine through investigative techniques who</p> <p>4 were -- who and what were the contributing</p> <p>5 factors and who was at fault of the accident.</p> <p>6 Q. And what sorts of things do you do when you're</p> <p>7 conducting an investigation like that to make</p> <p>8 those determinations that you just told us</p> <p>9 about?</p> <p>10 A. When I approach the traffic scene, I'm looking</p> <p>11 to see what the position of the vehicles are.</p> <p>12 I'm also -- as I'm approaching it, I'm looking</p> <p>13 to see if there are any skid marks that are</p> <p>14 visible as I'm driving up on it from the rear.</p> <p>15 As I'm getting to the scene, I'm beginning</p> <p>16 to position my vehicle where I'm in a position</p> <p>17 of safety and a position to move traffic into</p> <p>18 another direction away from my scene.</p> <p>19 At that time, even though it's a traffic</p> <p>20 accident, it -- it -- in my training, it is a</p> <p>21 criminal scene -- a crime scene. At that</p> <p>22 time, I'm beginning to start to preserve any</p> <p>23 evidence that may be a contributing factor to</p>
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<p>1 pattern?</p> <p>2 A. Well, with the lane -- the lane being blocked,</p> <p>3 it being raining, there's not a lot of</p> <p>4 lighting on that particular part of the road,</p> <p>5 when other -- when other officers got there, I</p> <p>6 had them position their vehicles so that</p> <p>7 traffic would be moved to the outside lane and</p> <p>8 the shoulder of the road so that traffic</p> <p>9 traveling east could continue on.</p> <p>10 Q. All right. After you made the roadway safe</p> <p>11 for people to get around, did you conduct an</p> <p>12 investigation out there at the scene?</p> <p>13 A. I had already begun my investigation as I was</p> <p>14 approaching the car, as I was approaching the</p> <p>15 accident itself.</p> <p>16 Q. And that's from your training --</p> <p>17 A. Correct.</p> <p>18 Q. -- they teach you to do that?</p> <p>19 What are the ultimate goals of your</p> <p>20 investigation as you conduct it?</p> <p>21 A. To determine what happened before the</p> <p>22 accident, during the accident, and after the</p> <p>23 accident; determine if there were any</p>	<p>1 determine who is or isn't at fault and to</p> <p>2 determine what are the contributing factors</p> <p>3 leading up to the traffic accident.</p> <p>4 Then I'm going to look at damage to the</p> <p>5 vehicles. As I'm looking for the damage to</p> <p>6 the vehicles, I'm also looking for any</p> <p>7 contributing defects of the vehicle to</p> <p>8 determine if there was something mechanical</p> <p>9 that might have been a contributing factor to</p> <p>10 the traffic accident.</p> <p>11 As I'm speaking with the drivers, I'm</p> <p>12 looking for any type of impairment, whether it</p> <p>13 be that they've had anything to drink or any</p> <p>14 type of narcotics, or it may be something as</p> <p>15 simple as they were just tired or that they</p> <p>16 were inattentive. Could be possibly due to</p> <p>17 they were lost, didn't know with they were at,</p> <p>18 confused about the roadway or the traffic</p> <p>19 pattern, whether or not they were listening to</p> <p>20 the radio, what they were doing prior to that.</p> <p>21 I've had several traffic accidents that</p> <p>22 I've investigated where the contributing</p> <p>23 factor was the driver not paying attention</p>

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<p>1 because they were trying to find another radio 2 station. 3 So it would be any number of things that 4 would lead me to determine what may have 5 caused an accident. 6 Q. Do you talk to the people in the vehicles? Is 7 that part of your investigation? 8 A. Yes, I do. 9 Q. Do you talk to any witnesses if there are any? 10 A. If there are, and I get their names and 11 whatever information I need pertaining to that 12 individual so they can be contacted at a later 13 date. 14 Q. All right. Tell us about any conversations 15 you had with the two men in the passenger car 16 that night. 17 A. The two persons in the passenger car, both of 18 them -- I spoke with them separately. And 19 they pretty much said the same thing, of 20 course, both of them using different 21 verbiage. But as they were traveling east on 22 Highway 84, they had proceeded down the hill, 23 which would have been just out -- or just at</p>	<p>1 and -- and then they ended up driving 2 partially underneath the trailer. 3 Q. Did your examination of the physical evidence 4 at the scene confirm their story? 5 A. It supported their story. 6 Q. Supported their story. Did you find them to 7 be credible that night? 8 A. Yes. 9 Q. You didn't feel like they were hiding anything 10 from you? 11 A. No. 12 Q. Did you also speak with the -- there were two 13 gentlemen I believe in the tractor trailer. 14 Did you speak with those men? 15 A. Yes, I did. 16 Q. And what did they tell you happened? 17 A. The driver told me -- I believe his name 18 is -- I think his name is Fredrick. And I 19 don't remember if that's his first name or 20 last name. But he told me that he was -- was 21 looking for a particular business. Had driven 22 all the way through Andalusia and knew he had 23 to go back to Andalusia, but he wasn't sure</p>
Page 18	Page 20
<p>1 Jones Veterinary Clinic, traveling on 84 2 East. It's a four-lane roadway at that 3 point. They traveled down the hill. As 4 they're coming up out of the bottom of the 5 hill, they're traveling at about -- about 45, 6 maybe as much as 50 miles an hour but, in 7 general terms, about 45. They knew that the 8 roads were wet. They were just trying to get 9 back to the house. 10 When they crested the hill, they could 11 see -- there's actually like another little 12 dip, and then they -- they could see the 13 tractor trailer and a -- according to them, 14 the tractor trailer was in the outside lane, 15 which will be the right-hand lane. 16 And as they were coming up on the rear of 17 the tractor trailer, at that point, the 18 tractor trailer just made a left-hand turn, 19 cutting right in front of them. The driver 20 was able to slam on the brakes and turn the 21 steering wheel slightly to the left, 22 attempting to avoid a collision. And the 23 tractor trailer continued to turn to the left</p>	<p>1 where the business was located at. Had pulled 2 to the shoulder of the road, had stopped. Had 3 then determined that he needed to go back into 4 Andalusia. Pulled onto the -- onto the 5 right-hand lane. Believed that he was in the 6 left-hand lane, the inside lane. Saw the car 7 in his mirror as it was coming down the hill. 8 And -- and as it was starting up the hill. 9 And then still believing that he was in the 10 left-hand lane, began to make his left turn to 11 make a U-turn. 12 Q. Okay. Were you able to make a determination 13 as to which of the two vehicles was at fault 14 in the accident? 15 A. The tractor trailer. 16 MR. RICHMOND: Object to the form. 17 Q. He's just protecting the Record. Will you 18 repeat your answer, please? 19 A. The tractor trailer. 20 Q. And what are some of things that led you to 21 that conclusion? 22 A. The positioning of the vehicle at the -- at 23 it's final resting point. The vehicle -- it</p>

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<p style="text-align: right;">Page 21</p> <p>1 was clear that the vehicle, in making its</p> <p>2 turn, had come from the outside lane, the</p> <p>3 right-hand lane in making its turn.</p> <p>4 Statements from the driver that the driver</p> <p>5 believed that he was in the left-hand lane and</p> <p>6 not the outside lane.</p> <p>7 I even took the driver back, showed him</p> <p>8 the position of his trailer. And -- and at</p> <p>9 that point, the driver -- for lack of a better</p> <p>10 expression, you could see the light bulb come</p> <p>11 on. And he realized at that point in time</p> <p>12 that when he was pulling onto the shoulder of</p> <p>13 the road, pulling into the outside lane, that</p> <p>14 somewhere in there, that he had lost track of</p> <p>15 what lane he was in as he was preparing to set</p> <p>16 up to make his U-turn.</p> <p>17 Q. Did he ever admit to you that he was, in fact,</p> <p>18 in the right-hand lane when he thought he was</p> <p>19 in the left?</p> <p>20 A. He did after I had showed him the position of</p> <p>21 his trailer.</p> <p>22 Q. Did you also speak with the other man in the</p> <p>23 car with him -- in his tractor with him?</p>	<p style="text-align: right;">Page 23</p> <p>1 had determined that he needed to make a</p> <p>2 U-turn. And he was short of where the</p> <p>3 turnaround spot would be at -- at Shreve Road</p> <p>4 and the vicinity of Ireland Trailers.</p> <p>5 As he pulled out onto the roadway, I</p> <p>6 believe -- in my mind, I believe that he is</p> <p>7 looking at where it is that he needs to turn</p> <p>8 around at, and that during that time period,</p> <p>9 lost what lane he was in.</p> <p>10 I believe that he did do exactly what he</p> <p>11 said of looking in the mirrors of his truck,</p> <p>12 checking the traffic coming up behind him.</p> <p>13 But still believing that he was in the inside</p> <p>14 lane, it did -- I think that it dawned on him</p> <p>15 at that point as to where his truck physically</p> <p>16 was located at.</p> <p>17 As he began to make the left-hand turn, at</p> <p>18 that point, there's a blind spot to him to</p> <p>19 that oncoming lane. I know this from my</p> <p>20 previous experience as having driven a truck.</p> <p>21 So he may not have seen that car coming up on</p> <p>22 him at that time until the car was immediately</p> <p>23 on the -- on his vehicle. And at that point,</p>
<p style="text-align: right;">Page 22</p> <p>1 A. Very, very briefly.</p> <p>2 Q. And what did he have to say?</p> <p>3 A. He said that he didn't even realize what all</p> <p>4 had happened.</p> <p>5 Q. Do you know who he was?</p> <p>6 A. Actually, I don't -- I don't have his name.</p> <p>7 Like I said, I spoke with him very briefly. I</p> <p>8 know he was a trainee that was in the truck.</p> <p>9 Q. How old was that person; do you remember?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you recall if he was white or black?</p> <p>12 A. He was a white male.</p> <p>13 Q. When you were describing what you do in an</p> <p>14 investigation, you said you try to determine</p> <p>15 the position of the vehicles before, during,</p> <p>16 and after the wreck. Did I say that right?</p> <p>17 A. That's correct.</p> <p>18 Q. And can you briefly explain to us what you</p> <p>19 believe the positioning of the vehicles were</p> <p>20 before, during, and after the wreck?</p> <p>21 A. Before the traffic accident occurred, I</p> <p>22 believe that the driver of the tractor trailer</p> <p>23 was on the right-hand side of the road. He</p>	<p style="text-align: right;">Page 24</p> <p>1 it's too late.</p> <p>2 The driver of the car, traveling eastbound</p> <p>3 in the inside lane, as he's coming up on the</p> <p>4 tractor trailer, he sees that the tractor</p> <p>5 trailer is beginning to make that move to the</p> <p>6 left. As the vehicle begins making the move</p> <p>7 to the left, the driver -- you can see from</p> <p>8 the skid marks -- began stomping on the brake</p> <p>9 or depressing the brake pedal in a -- in a</p> <p>10 very rapid and forceful manner causing the</p> <p>11 vehicle to skid, that partially due to the</p> <p>12 weather because the vehicle was equipped with</p> <p>13 ABS brakes. So you're getting not so much of</p> <p>14 a skid as what's referred to as a yaw mark.</p> <p>15 The vehicle is -- actually moves into the</p> <p>16 turning lane of the -- of that particular</p> <p>17 turnaround spot as it is -- and I'm going to</p> <p>18 use the term "skidding" instead of "yawing"</p> <p>19 because it is skidding forward.</p> <p>20 And by the positioning of the wheels of</p> <p>21 the vehicle, you can see that the driver is</p> <p>22 still trying to make a -- make the vehicle</p> <p>23 move to the left, instead of driving up</p>

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<p>1 underneath the trailer.</p> <p>2 Problem was, no -- no more forward</p> <p>3 movement of the trailer, so it's more or less</p> <p>4 a brick wall. And because of the speed of</p> <p>5 this vehicle and the conditions of the roadway</p> <p>6 that night, he ran out of terrain before he</p> <p>7 could complete the maneuver.</p> <p>8 And that -- to me that was -- they were</p> <p>9 lucky that the car had slowed to the point</p> <p>10 that it had slowed at, or it could have been a</p> <p>11 truly catastrophic accident with the car</p> <p>12 having the top of it sheared off and them</p> <p>13 being underneath the trailer.</p> <p>14 Q. You mentioned some skid marks. Did you</p> <p>15 measure those skid marks?</p> <p>16 A. It wasn't necessary to measure them. The</p> <p>17 story from the driver and the story from</p> <p>18 the -- or the statement from the driver and</p> <p>19 the statement from the two people in the</p> <p>20 vehicle, all -- all seemed to coincide with --</p> <p>21 with each other. So there wasn't any</p> <p>22 necessity to do that.</p> <p>23 Q. Okay. You also told you us earlier that you'd</p>	<p>1 turnaround, made his turn there, and come back</p> <p>2 into Andalusia.</p> <p>3 I also believe that the driver of the</p> <p>4 tractor trailer was distracted. And I would</p> <p>5 say that he was distracted in that he did not</p> <p>6 realize where his vehicle was located at in</p> <p>7 his mind in conjunction to where it was</p> <p>8 actually located at. And I think that he was</p> <p>9 distracted in that he knew that he had to turn</p> <p>10 around to go back into town, and that's more</p> <p>11 of what he was concentrating on.</p> <p>12 And those are my suppositions.</p> <p>13 Q. All right. Are those suppositions based on</p> <p>14 what he was telling you?</p> <p>15 A. Based on what he was telling me and based on</p> <p>16 the maneuvers of the tractor.</p> <p>17 Q. Okay. You mentioned something a few minutes</p> <p>18 ago that I meant to follow up on and I</p> <p>19 forgot. So let me just ask you now.</p> <p>20 Did he tell you that he had lost what lane</p> <p>21 he was in?</p> <p>22 A. Those weren't the words that he used. The</p> <p>23 words that he used was, he didn't realize he</p>
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<p>1 try to determine contributing factors to the</p> <p>2 wreck. What contributing factors on the part</p> <p>3 of the driver of the tractor trailer do you</p> <p>4 believe influenced this wreck?</p> <p>5 MR. RICHMOND: Object to the form.</p> <p>6 A. The first would be that he made an improper</p> <p>7 left-hand turn. He made it from the outside</p> <p>8 lane instead of the inside lane. Even driving</p> <p>9 a tractor trailer in that position, it's my</p> <p>10 opinion that had he been in the left-hand</p> <p>11 lane, he would have had ample room to make the</p> <p>12 U-turn without having to come from the</p> <p>13 right-hand lane.</p> <p>14 Another contributing factor would be his</p> <p>15 not seeing where the vehicle coming up behind</p> <p>16 him was properly located at. I believe that</p> <p>17 had he been observant and had noted that the</p> <p>18 vehicle was coming up behind him on the inside</p> <p>19 lane, I believe that the driver would have,</p> <p>20 one, either waited for that vehicle to pass</p> <p>21 before continuing his maneuver because there</p> <p>22 was no traffic behind that vehicle; or he</p> <p>23 would have proceeded down to the next</p>	<p>1 was in the outside lane. He thought he was in</p> <p>2 the inside lane.</p> <p>3 Q. But at some point, he realized that that was</p> <p>4 incorrect?</p> <p>5 MR. RICHMOND: Object to the form.</p> <p>6 A. That was -- he told me that he realized that</p> <p>7 he wasn't where he thought he was when he</p> <p>8 looked in the -- looked back over his shoulder</p> <p>9 and saw the car coming up on him.</p> <p>10 Q. Did you take photographs of the scene that</p> <p>11 night?</p> <p>12 A. Yes, I did.</p> <p>13 Q. And do those photographs accurately represent</p> <p>14 what you saw that night?</p> <p>15 A. I would hope so.</p> <p>16 Q. It's a silly lawyer question. Sorry.</p> <p>17 And you made a report of your</p> <p>18 investigation that night, too?</p> <p>19 A. Yes, I did.</p> <p>20 Q. When did you make the report?</p> <p>21 A. That night.</p> <p>22 Q. And I'm going mark that as Plaintiffs' Exhibit</p> <p>23 1.</p>

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<p>1 (Plaintiffs' Exhibit 1 was marked 2 for identification.) 3 Q. Have you had a chance to review this accident 4 report? 5 A. I did when I came in this morning. 6 MR. HAYES: I'm going to mark it on the 7 back, Ms. Court Reporter. 8 Q. In your judgment, did the passenger car do 9 anything to contribute to the accident? 10 MR. RICHMOND: Object to the form. 11 A. No. I do not think that it contributed -- 12 that its actions contributed to the accident. 13 Q. That's all I have right now. Thank you. 14 MR. RICHMOND: Are you offering that? 15 MR. HAYES: I am offering it. 16 MR. RICHMOND: I'll object to this as to 17 the admissibility into evidence at 18 trial, but will not object to marking 19 it as an exhibit -- 20 MR. HAYES: Sure. 21 MR. RICHMOND: -- to Officer McGowin's 22 deposition. 23 (Brief recess)</p>	<p>1 the physical evidence. It's at least based in 2 part on your conversations with individuals. 3 Would that be a true statement? 4 A. No. 5 Q. So all of this information in this report was 6 derived from physical evidence? 7 A. With the exception of the information of the 8 driver's information, the information 9 concerning insurance 10 companies -- what -- information that I would 11 have to receive from the person involved in it 12 in order to fill in the blank, that 13 information comes from the driver. So in that 14 context, you would be correct. 15 Q. Okay. What I'm getting at is, particularly in 16 regards to speed, you had to rely entirely 17 upon what the individuals at the scene -- 18 A. No, that's not correct either. 19 Q. Did you calculate based upon physical evidence 20 and math, physics, what have you? Did you do 21 your own analysis to calculate the speeds? 22 A. The way that I -- well, no, because of there 23 being rain and all and that being a yaw mark,</p>
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<p>1 EXAMINATION 2 BY MR. RICHMOND: 3 Q. Officer McGowin, my name is Lea Richmond. I 4 represent Fredrick Martin and Swift 5 Transportation Company, Incorporated, in this 6 lawsuit. 7 Let me start by asking you a question 8 about what's been marked as Plaintiffs' 9 Exhibit 1. I understand that this is the 10 Alabama Uniform Traffic Accident Report that 11 you completed in connection with this 12 accident, correct? 13 A. It's a copy. 14 Q. Copy of the report that you completed? 15 A. Correct. 16 Q. Now, the information that you relied upon at 17 least, in part, to complete this report was 18 based upon conversations you had with the 19 parties or witnesses. Would that be a true 20 statement? 21 A. In -- possibly in part. 22 Q. Correct. Insofar as that not all the 23 information was based upon your observation of</p>	<p>1 what I was -- what I was able to determine was 2 that in my estimation, the speed that the 3 driver said that he was doing was -- did 4 coincide with where his vehicle was at, the 5 distance that the vehicle had traveled once 6 there was a yaw mark that was visible, and the 7 final resting point of the vehicle. 8 Q. Right. And we'll talk in more detail about 9 that. I'm not trying to quibble with you 10 about your actual findings. I just wanted to 11 see if you would agree with me that at least 12 some of the information relied upon this 13 report or the information that you relied upon 14 in compiling this report was given to you 15 verbally by people at the scene. 16 A. I would say that it was contributing to my 17 reaching my conclusions. 18 Q. And along those lines, Mr. Martin, did you 19 find him to be cooperative with you at the 20 scene? 21 A. Yes. 22 Q. Was he pleasant and cordial with you? 23 A. He was very concerned.</p>

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<p>1 Q. Did he extend you the respect that was due to</p> <p>2 you as an officer on the scene?</p> <p>3 A. Yes, he did. So did the other individuals.</p> <p>4 Q. He was polite?</p> <p>5 A. That is correct.</p> <p>6 Q. Did you find any evidence that there were any</p> <p>7 drugs or alcohol consumed by any of the</p> <p>8 parties in connection with this accident?</p> <p>9 A. No, I did not.</p> <p>10 Q. Did you find any evidence of driver fatigue on</p> <p>11 the part of Mr. Martin?</p> <p>12 A. No, I did not.</p> <p>13 Q. Did you find any evidence of driver fatigue</p> <p>14 relative to either of Lawsons?</p> <p>15 A. I'm sorry?</p> <p>16 Q. Mr. Scott and Steven Lawson, did you find any</p> <p>17 evidence of fatigue being a contributing</p> <p>18 factor on their part relative to this</p> <p>19 accident?</p> <p>20 A. Well, the only one that would have been --</p> <p>21 Q. Would have been Scott?</p> <p>22 A. Yeah. And, anyway, to answer your question,</p> <p>23 no in either one.</p>	<p>1 would have been Trooper Steven Kelly, who</p> <p>2 would have come out and conducted that portion</p> <p>3 of the investigation.</p> <p>4 Q. And they would have done a full level-one</p> <p>5 audit --</p> <p>6 A. Correct.</p> <p>7 Q. -- probably based upon the information that</p> <p>8 you initially provided?</p> <p>9 A. That is correct.</p> <p>10 Q. But that wasn't the case either?</p> <p>11 A. No, it was not.</p> <p>12 Q. And you didn't -- although you're not a DOT</p> <p>13 officer per se, you do have a working</p> <p>14 knowledge of what the hours of service</p> <p>15 regulations are?</p> <p>16 A. That is correct.</p> <p>17 Q. And they appeared to be met by Mr. Martin in</p> <p>18 this instance?</p> <p>19 A. Yes. And I tell you that his -- his log book</p> <p>20 to -- that I can remember was very</p> <p>21 well-maintained.</p> <p>22 Q. Did you do an inspection of the equipment --</p> <p>23 Mr. Martin's equipment, the tractor and the</p>
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<p>1 Q. You had a CDL when you drove commercials for a</p> <p>2 while, correct?</p> <p>3 A. That is correct.</p> <p>4 Q. So you're familiar with the hours of service</p> <p>5 regulations, Federal Motor Carrier Safety</p> <p>6 Regulations, having to keep log books as a</p> <p>7 commercial motor vehicle driver?</p> <p>8 A. Yes.</p> <p>9 Q. Did you endeavor to look into whether</p> <p>10 Mr. Martin had complied with that; did you</p> <p>11 look at his log book?</p> <p>12 A. Yes, I did. And -- and in my examination of</p> <p>13 his book, even though I am not a DOT-certified</p> <p>14 officer, I am familiar with the rules and</p> <p>15 regulations of the Federal Highway</p> <p>16 Safety -- Federal Highway Traffic Safety</p> <p>17 Administration concerning hours of service.</p> <p>18 So I did look at his book to see if he was</p> <p>19 within his hours of service.</p> <p>20 I will tell you that had I found him not</p> <p>21 to be within his hours of service, I would</p> <p>22 have notified a DOT-certified officer with the</p> <p>23 Alabama State Troopers, which in this area</p>	<p>1 trailer?</p> <p>2 A. No, I did not because I did not -- during the</p> <p>3 course of the investigation, I did not see</p> <p>4 anything that would have been a contributing</p> <p>5 factor that was not in operation that I could</p> <p>6 not see.</p> <p>7 Q. A more efficient question would be, during the</p> <p>8 course of your investigation, did you find any</p> <p>9 equipment defects relative to either vehicle</p> <p>10 that contributed to the cause of the</p> <p>11 collision?</p> <p>12 A. No, I did not.</p> <p>13 Q. Do you recall what time you received the</p> <p>14 dispatch call to get --</p> <p>15 A. It was going to be about 1915, which would be</p> <p>16 7:15 p.m.</p> <p>17 Q. Were you riding in a -- is police cruiser the</p> <p>18 correct term, at that time? Were you out on</p> <p>19 patrol, or were you actually at the --</p> <p>20 A. No, I was actually at the police department.</p> <p>21 Q. And do you have a partner?</p> <p>22 A. No, I do not.</p> <p>23 Q. At the time of accident, did you have a</p>

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<p>1 partner?</p> <p>2 A. Just my video camera.</p> <p>3 Q. How long did it take you to respond to the</p> <p>4 scene?</p> <p>5 A. I would say probably -- I would say probably</p> <p>6 around three minutes, no -- no more than five.</p> <p>7 Q. How did you approach the scene?</p> <p>8 A. By traveling east on Highway 84 so I would</p> <p>9 have been coming up on the back of the traffic</p> <p>10 accident.</p> <p>11 Q. And where did you bring your vehicle to a</p> <p>12 stop?</p> <p>13 A. In the -- initially, in the inside lane of the</p> <p>14 Highway 84 East to block traffic, to make that</p> <p>15 traffic move to the outside lane to -- outside</p> <p>16 lane and the shoulder of the road at that</p> <p>17 intersection to be -- for traffic to be able</p> <p>18 to continue forward.</p> <p>19 Q. Were you the first law enforcement personnel</p> <p>20 to arrive on the scene?</p> <p>21 A. Yes, I was.</p> <p>22 Q. Were you the only member of law enforcement to</p> <p>23 work the scene?</p>	<p>1 traffic accident. And the other being, once I</p> <p>2 arrived at the scene and I placed the first</p> <p>3 officer in a position to direct traffic, at</p> <p>4 that -- from that point on, I don't care who's</p> <p>5 at the scene. That's not my focus. My focus</p> <p>6 is the investigation of the accident.</p> <p>7 Q. So if I hear correctly, and in the interest of</p> <p>8 time, none of these other officers would have</p> <p>9 participated in any manner or assisted you in</p> <p>10 your investigation of the accident?</p> <p>11 A. That would be correct.</p> <p>12 Q. They were simply there to assist with the flow</p> <p>13 of traffic, things of that nature?</p> <p>14 A. Correct. I may have had one of them, at some</p> <p>15 point in time, hold the flashlight while I</p> <p>16 took a picture. But as far as them actually</p> <p>17 contributing to the investigation of the</p> <p>18 accident, I would say, no.</p> <p>19 Q. When you arrived on the scene, were you the</p> <p>20 first person responding to the scene? In</p> <p>21 other words, were paramedics there, rescue</p> <p>22 squad?</p> <p>23 A. No. They all arrived after I arrived.</p>
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<p>1 A. I was the only officer to investigate the</p> <p>2 scene, but I was not the only officer on the</p> <p>3 scene.</p> <p>4 Q. Who else was on the scene?</p> <p>5 A. Actually, I -- I would say that at some point</p> <p>6 in time, everyone on the shift was there. So</p> <p>7 that would have been -- I want to say Sergeant</p> <p>8 Tyree. Let me see if I can come up with the</p> <p>9 date of this. That would have been Sergeant</p> <p>10 Tyree, if he was working that night. Officer</p> <p>11 Bulger.</p> <p>12 Q. B-U-L-G-E-R?</p> <p>13 A. Correct. Seems like there were a couple of</p> <p>14 deputies that eventually showed up at the</p> <p>15 scene and then the rescue squad. And seems</p> <p>16 like there may have been one other officer</p> <p>17 that was on the scene.</p> <p>18 And the reason I'm having difficulty</p> <p>19 remembering exactly who was there were a</p> <p>20 couple of things. One is, it occurring right</p> <p>21 at shift change, there would have been a</p> <p>22 number of officers who would have responded</p> <p>23 being that it was tractor trailer verse car</p>	<p>1 Q. How far back did you stop your police cruiser</p> <p>2 from the area of impact?</p> <p>3 A. I'd say probably about 50 feet. I'd say</p> <p>4 between 25 and 50 feet.</p> <p>5 Q. Did you have your video camera running?</p> <p>6 A. Yes, I would have.</p> <p>7 Q. And was that -- did that video camera run the</p> <p>8 entire time that you were on the scene?</p> <p>9 A. Actually, I believe the videotape ran out</p> <p>10 sometime while the -- while I was at the</p> <p>11 scene.</p> <p>12 Q. But the videotape would have been turned on</p> <p>13 and running as you approached the scene, or</p> <p>14 did you turn it on after you came to a stop at</p> <p>15 the scene? I'm just trying to get a time</p> <p>16 frame as to when --</p> <p>17 A. I don't recall.</p> <p>18 Q. Have you reviewed that videotape?</p> <p>19 A. No, I have not.</p> <p>20 Q. Has that tape been maintained?</p> <p>21 A. Yes, it has. All of our videotapes, when the</p> <p>22 officer signs for it, there's a log that the</p> <p>23 officer signs saying that -- that they have</p>

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<p>1 been issued that specific tape. Once that</p> <p>2 specific tape has ended and you insert a new</p> <p>3 tape into your camera, those -- you take that</p> <p>4 tape, sign it in the log, saying that it is --</p> <p>5 with a date, time of when that tape ended.</p> <p>6 And then that tape is then placed in an</p> <p>7 evidence locker which is a -- which is</p> <p>8 accessible to put a tape in but you can't take</p> <p>9 it out unless you have the key. The only</p> <p>10 person who has the key to that particular</p> <p>11 locker is the evidence custodian for the</p> <p>12 police department, who at that time period was</p> <p>13 Sergeant Matt Mansell, who now works for the</p> <p>14 Alabama Criminal Justice Information Center as</p> <p>15 a regional investigator.</p> <p>16 Q. So if I understand you correctly in this</p> <p>17 particular instance, you fully documented the</p> <p>18 chain of custody with respect to that tape</p> <p>19 inasmuch as you removed it, signed some</p> <p>20 paperwork documenting that you were turning</p> <p>21 that tape in to the custodian of evidence?</p> <p>22 A. That's correct.</p> <p>23 Q. And as far as you know, that tape should still</p>	<p>1 Q. Did you ever go back and review that videotape</p> <p>2 when conducting your investigation of this</p> <p>3 accident?</p> <p>4 A. You've already asked me that, and I said, no.</p> <p>5 Q. When you arrived on the scene, could you see</p> <p>6 the occupants of -- I'll refer to it as the</p> <p>7 Chevy. It was a --</p> <p>8 A. The Chevy Lumina?</p> <p>9 Q. Lumina.</p> <p>10 A. Again, it seems like one of them was out of</p> <p>11 the vehicle and one of them was in the</p> <p>12 vehicle. Or both of them may already -- had</p> <p>13 been out of the vehicle. I -- and somewhere</p> <p>14 in there, as I'm arriving at the scene -- I'm</p> <p>15 not really sure, but I -- I almost want to say</p> <p>16 that -- that both of them were out. But if</p> <p>17 both of them were not out, it would have been</p> <p>18 one was out and one was getting out.</p> <p>19 Q. How quickly did it take you to determine that</p> <p>20 someone was not killed?</p> <p>21 A. When I walked up and I looked in the vehicle</p> <p>22 and saw that no one was in it with their head</p> <p>23 decapitated.</p>
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<p>1 be at the Andalusia Police Department in the</p> <p>2 evidence locker.</p> <p>3 A. Well, it will be -- you'd have to speak to the</p> <p>4 evidence custodian as to how it is maintained,</p> <p>5 but I do know that it is maintained as</p> <p>6 evidence.</p> <p>7 Q. Okay. My question --</p> <p>8 A. Every tape within the department is maintained</p> <p>9 as evidence -- as controlled evidence.</p> <p>10 Q. You have no knowledge of it being removed,</p> <p>11 taped over, or anything of that nature?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. Is that something typically parties need to</p> <p>14 subpoena from the police department in order</p> <p>15 to get a copy of?</p> <p>16 A. Yes, they would.</p> <p>17 Q. That will not be released voluntarily for a</p> <p>18 fee or copied for a charge like an accident</p> <p>19 report?</p> <p>20 A. You're -- you're -- that's an administrative</p> <p>21 procedure, and I don't have anything to do</p> <p>22 with administration or operations of the</p> <p>23 department.</p>	<p>1 Q. But you don't remember who was -- if someone</p> <p>2 was in the vehicle or out of the vehicle at</p> <p>3 that juncture?</p> <p>4 A. Again, it seems as though they were both out.</p> <p>5 But if they were -- both were not out, the</p> <p>6 driver was out, and the passenger was getting</p> <p>7 out. And I -- I don't actually recall which</p> <p>8 it was at this time.</p> <p>9 Q. Would the passenger have been able to get out</p> <p>10 from the passenger's side door?</p> <p>11 A. No.</p> <p>12 Q. So if the passenger was getting out, he would</p> <p>13 have had to either had to go through the back</p> <p>14 seat or through the driver's side door?</p> <p>15 A. He would have -- he went through the driver's</p> <p>16 side door. That was the only door that was</p> <p>17 opened.</p> <p>18 Q. Did you have to assist him out of the vehicle?</p> <p>19 A. Not that I recall.</p> <p>20 Q. So to your knowledge, both Scott Lawson and</p> <p>21 Steven Lawson were able to get out of the</p> <p>22 vehicle on their own power?</p> <p>23 A. That I recall.</p>

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<p>1 Q. Did you ever have to assist them physically at 2 the scene to walk to a particular point? What 3 I'm getting at is, were they able to ambulate 4 on their power around the accident scene? 5 A. Yes, they were. 6 Q. Did they appear to be physically injured? Did 7 you see any severe laceration, blood, any 8 immediate serious injuries? 9 A. Not what I would call a serious injury. 10 Q. What type of injuries did you observe then? 11 A. Seems like that were -- on the passenger, it 12 seems like he had a couple of cuts and 13 scrapes. You could tell that both of them 14 were -- were still in what I would refer to as 15 a state of shock. 16 I think that the realization as time went 17 on and began to sank -- began to sink in that 18 they truly came within tenths of a second of 19 possibly being killed. 20 I think that as I can remember them 21 walking, that both of them complained of being 22 a little bit stiff or -- or body parts aching 23 but -- but them still, you know, being able to</p>	<p>1 them were transported to the hospital by EMS. 2 Q. And you've told me already, you've 3 investigated numerous accidents; you've been 4 on numerous accident scenes? 5 A. Correct. 6 Q. And would have seen paramedics or EMTs arrive 7 on those scenes and attempt to provide 8 treatment to the parties involved, true? 9 A. Yes. 10 Q. And is it your experience that if a party 11 refuses medical treatment, the paramedics or 12 EMTs will typically get a waiver of treatment 13 form executed by the parties? 14 MR. HAYES: Object to the form. 15 A. You would have to ask Advanced EMS what their 16 procedures were. 17 Q. You've never seen that before? 18 A. Well, I'm telling you that I don't know what 19 the procedures are. 20 Q. Okay. But my question to you is, have you 21 ever seen on the scene parties execute waiver 22 of treatment forms that were offered by 23 paramedics or EMTs?</p>
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<p>1 walk around and all. 2 And I can remember that -- them stating 3 that they did not want to go to the emergency 4 room or making some type of statements to EMS 5 into that. And I don't remember if they told 6 me that or if a EMS told me that they did not 7 want to be transported to the hospital. 8 And I do remember one of them or someone 9 in that group speaking that they didn't have 10 any medical insurance. Now, I don't know if 11 that was a contributing factor to them not 12 going to the emergency room. I -- I don't -- 13 I couldn't -- I couldn't answer that. But I 14 do remember vaguely somebody making that 15 comment or hearing that comment. 16 Q. Did you see the EMS, paramedics, however you 17 would like to describe them, arrive on the 18 scene and offer treatment -- 19 A. Yes. 20 Q. -- to Mr. Scott Lawson and Mr. Steve Lawson? 21 A. Yeah. And both were looked at and I believe 22 treated at the scene. But I don't remember 23 either one of them -- I know neither one of</p>	<p>1 A. I have seen some services over the year do 2 that. But, again, as far as Advanced EMS, you 3 would have to ask them what their procedures 4 are. I don't know. 5 And on this specific evening, at that 6 point in time, I was -- honestly, I wasn't 7 paying attention to them. I was paying 8 attention to the investigation of the 9 accident. So I couldn't tell you what they 10 did or did not do. 11 Q. Okay. So you didn't overhear any 12 conversations between the paramedics or EMTs 13 and Scott and Steven Lawson? 14 A. I'm sorry? 15 Q. You didn't overhear any conversations between 16 the paramedics and Scott and Steven Lawson? 17 A. If -- if I did, I wasn't paying attention. 18 Q. Is it your understanding that you have to have 19 medical insurance in order to receive a 20 transport from an accident scene to an 21 emergency room to be checked out? 22 A. No, you don't. You -- if you're brought into 23 the emergency room, you will be treated as an</p>

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<p>1 emergency regardless of where it is that you</p> <p>2 go to.</p> <p>3 Q. What was the weather like right when you</p> <p>4 pulled up on the scene; was it still raining?</p> <p>5 A. Seemed like it was -- that there was a -- I</p> <p>6 want to say somewhere between a rain and a</p> <p>7 drizzle if I remember.</p> <p>8 Q. And what was the lighting like near the</p> <p>9 accident scene?</p> <p>10 A. There's no light on that particular section of</p> <p>11 roadway. That roadway is -- is dark in that</p> <p>12 particular area. However, there is artificial</p> <p>13 exterior lighting in the vicinity of Ireland</p> <p>14 Trailers that does partially illuminate that</p> <p>15 intersection at night.</p> <p>16 Q. What distance is that business from the</p> <p>17 accident scene?</p> <p>18 A. Well, the property is -- is on the</p> <p>19 right-of-way or just mixed with the</p> <p>20 right-of-way of Highway 84 West. The building</p> <p>21 itself, I would say, sits probably about 100</p> <p>22 yards from -- from that intersection, maybe</p> <p>23 not quite a hundred yards. And -- but, now,</p>	<p>1 already covered, but describe for me again, as</p> <p>2 best you can, the position of the vehicles as</p> <p>3 you walked up to the scene.</p> <p>4 A. Okay. That would be accurately depicted in</p> <p>5 this. This right here is the final resting</p> <p>6 point of the tractor trailer. This is the</p> <p>7 final resting point of the car.</p> <p>8 MR. HAYES: Just for the Record, you're</p> <p>9 referring to Plaintiffs' Exhibit 1.</p> <p>10 A. I'll tell you that the truck was generally</p> <p>11 facing to the north and that the car was</p> <p>12 generally facing to the north, northeast.</p> <p>13 Q. When you investigate accident scenes, do you</p> <p>14 typically mark on the roadway the resting</p> <p>15 position of the vehicles?</p> <p>16 A. It depends upon the accident and the</p> <p>17 circumstances of the accident. I don't</p> <p>18 believe that I did on -- now, let me think if</p> <p>19 I did or didn't. Actually, I don't recall if</p> <p>20 I did that evening, and I -- I would say that</p> <p>21 the reason that I didn't was because of the</p> <p>22 wetness of the roadway, that there would have</p> <p>23 been difficulty in getting the paint to</p>
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<p>1 their lighting is throughout their exterior</p> <p>2 area of their business.</p> <p>3 Q. Did you note on that particular evening</p> <p>4 whether or not those secondary business lights</p> <p>5 were providing illumination at the scene?</p> <p>6 A. There -- well, there -- again, that's</p> <p>7 subjective or -- but I would say that I know</p> <p>8 the lights were on. How much lighting was</p> <p>9 shining on -- on that particular intersection,</p> <p>10 I couldn't tell you. I can tell you that from</p> <p>11 the position of the final resting point of the</p> <p>12 tractor trailer, that most any light that</p> <p>13 would have illuminated it would have been</p> <p>14 blocked by the tractor trailer.</p> <p>15 Q. Relative to whom?</p> <p>16 A. Relative to the passenger car.</p> <p>17 Q. The weather, I assume, was cloudy since it was</p> <p>18 raining and there wasn't much moonlight that</p> <p>19 evening or would you have a recollection --</p> <p>20 A. There wasn't a -- there wasn't a -- there was</p> <p>21 no moon illumination that was visible due to</p> <p>22 cloud coverage.</p> <p>23 Q. And I don't mean to re-turn ground that was</p>	<p>1 actually stick to the roadway.</p> <p>2 Q. Are there other means of marking the resting</p> <p>3 position of vehicles in -- say, for instance,</p> <p>4 when you're investigating a scene where you</p> <p>5 have wet roads?</p> <p>6 A. There are. One of the methods that I've used</p> <p>7 in the past, however, in the kit that I have</p> <p>8 in my patrol car, I don't have this equipment</p> <p>9 in it. And it's actually become, over the</p> <p>10 years, very difficult to get the pieces. But</p> <p>11 I used to paint the top of a Coca-Cola bottle,</p> <p>12 and then take a nail and drive through the</p> <p>13 Coca-Cola bottle, and then drive that into the</p> <p>14 roadway as a marker.</p> <p>15 Q. Did you ever endeavor to find out what the</p> <p>16 weight of the tractor was?</p> <p>17 A. Yes, I did. I did that by looking on his bill</p> <p>18 of lading. And if you'll -- it's in the --</p> <p>19 it's marked right here that the tractor was</p> <p>20 17,400 pounds. The trailer was 13,322 for a</p> <p>21 gross vehicle weight of 33,722 pounds.</p> <p>22 Q. Now, is that section of the report for gross</p> <p>23 vehicle weight rating or for the actual weight</p>

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<p>1 of the vehicle?</p> <p>2 A. Oh, I'm sorry. There's for the rating.</p> <p>3 However, I did look on the bill of lading.</p> <p>4 And one of the things that I was looking for</p> <p>5 and I know that he was under was maximum gross</p> <p>6 vehicle weight of 80,000.</p> <p>7 Q. Which would be the limit?</p> <p>8 A. That's correct.</p> <p>9 Q. Under the Federal Motor Carrier Safety</p> <p>10 Regulations?</p> <p>11 A. That's correct. And he was --</p> <p>12 Q. He was underneath that.</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever endeavor to weigh or find out</p> <p>15 what the weight of the Chevy Lumina was?</p> <p>16 A. No. It's immaterial.</p> <p>17 Q. Why is it immaterial?</p> <p>18 A. Because it's not going to exceed 80,000</p> <p>19 pounds.</p> <p>20 Q. Well, if you wanted to calculate the speed of</p> <p>21 that vehicle, outside of relying upon the</p> <p>22 information provided by either Scott Lawson or</p> <p>23 Steven Lawson, then that would be a material</p>	<p>1 and the upward slope of the roadway at the</p> <p>2 time period of the traffic accident, the</p> <p>3 conditions of the roadway at the particular</p> <p>4 time. I would have also had to have taken a</p> <p>5 sample of the asphalt to determine the</p> <p>6 chemical makeup of the asphalt at that</p> <p>7 particular location.</p> <p>8 Q. And these are all things that you did not do,</p> <p>9 correct?</p> <p>10 A. That is correct because this particular</p> <p>11 accident I don't believe warranted having to</p> <p>12 do that.</p> <p>13 Q. Did you measure the dimensions of the Chevy</p> <p>14 Lumina?</p> <p>15 A. It's a Chevy Lumina.</p> <p>16 Q. You would reference materials and manuals for</p> <p>17 that?</p> <p>18 A. Yeah. Well, there wouldn't be any -- I mean,</p> <p>19 it's a Chevy Lumina. It's not like the car</p> <p>20 has been set up for NASCAR or stacked or cut,</p> <p>21 extended, or -- or any way that I could</p> <p>22 determine modified beyond what the original</p> <p>23 manufacturer specified for the vehicle.</p>
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<p>1 factor, correct?</p> <p>2 A. It would have been if I were attempting to</p> <p>3 determine what the coefficient of friction was</p> <p>4 for the highway and for the motor vehicle. I</p> <p>5 also would have had to have taken samples of</p> <p>6 the tires, particularly the front tires of the</p> <p>7 vehicle because that is a front wheel drive</p> <p>8 vehicle in order to assist in determining that</p> <p>9 information.</p> <p>10 I also would have had to conduct a</p> <p>11 detailed inventory of the vehicle and the</p> <p>12 trunk of the vehicle in determining what it</p> <p>13 was that was contributing factors to any</p> <p>14 excessive weight that may have been in the</p> <p>15 vehicle. However, because of the</p> <p>16 circumstances of the traffic accident, I did</p> <p>17 not see that there would be any need for that.</p> <p>18 Another thing that I would have had</p> <p>19 difficulty in determining, in determining</p> <p>20 their minimum speed based on speed distance,</p> <p>21 coefficient of friction, and time traveled</p> <p>22 would have been reconstructing the conditions</p> <p>23 of the roadway that night where it was raining</p>	<p>1 Q. Did you measure the tractor or the trailer?</p> <p>2 A. It's -- the tractor was a standard commercial</p> <p>3 tractor. The trailer was a standard -- if I'm</p> <p>4 not mistaken, I think it was a 53 foot</p> <p>5 trailer.</p> <p>6 Q. Regular drive-in box trailer?</p> <p>7 A. Regular drive-in box trailer.</p> <p>8 Q. Do you know what kind of tractor it was?</p> <p>9 A. It was either a Freightliner or a Volvo if I</p> <p>10 can remember. A Volvo.</p> <p>11 Q. Have you ever driven a Volvo?</p> <p>12 A. Yes, I have.</p> <p>13 Q. What year was this particular Volvo?</p> <p>14 A. Looking at the report, it is a -- it was a</p> <p>15 2007. And, actually, I commented to him about</p> <p>16 how clean the inside of the tractor was.</p> <p>17 Q. Have you ever driven an '07 Volvo tractor?</p> <p>18 A. Not an '07, no.</p> <p>19 Q. Was this a -- do you know if it was a straight</p> <p>20 shift or an automatic?</p> <p>21 A. Actually, I -- I don't know. I don't know if</p> <p>22 it was an automatic or if it was a ten-speed</p> <p>23 with a Roadranger or a straight ten or a super</p>

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<p>1 ten, as it would be called.</p> <p>2 Q. Did you make any efforts to determine what the</p> <p>3 turning radius for that equipment was?</p> <p>4 A. No, I did not.</p> <p>5 Q. Sitting here today, do you have any knowledge</p> <p>6 as to what the turning radius of that unit</p> <p>7 was?</p> <p>8 A. No, I do not. However, in my experience as</p> <p>9 having pulled equipment, I know what -- what</p> <p>10 area of terrain is needed to -- to make</p> <p>11 that -- to make that turn -- the type of turn</p> <p>12 that he was making. And in my estimation, had</p> <p>13 he been in the inside lane, he would have had</p> <p>14 ample -- ample ability to make that U-turn.</p> <p>15 Q. But sitting here today --</p> <p>16 A. And that's notwithstanding him being in the</p> <p>17 far inside lane which was actually a turn</p> <p>18 lane. If he had been inside that turn lane, I</p> <p>19 would say that he would have had ample terrain</p> <p>20 in which to safely make that turn.</p> <p>21 Q. Did you take any measurements of the roadway</p> <p>22 relative to the dimensions of the median, the</p> <p>23 turn lane, the left lane, the right lane?</p>	<p>1 Q. Do you know, sitting here today, that if that</p> <p>2 tractor trailer being, as you told me earlier,</p> <p>3 a drive-in box --</p> <p>4 A. Right, 54 foot.</p> <p>5 Q. And would be, what, at least another 12 feet</p> <p>6 on the tractor if not more, right?</p> <p>7 A. Probably.</p> <p>8 Q. All right. Do you know if that unit would fit</p> <p>9 within the turning lane?</p> <p>10 A. No, that's what I said.</p> <p>11 Q. But that's not my question. That's what my</p> <p>12 question is, would it fit within that turning</p> <p>13 lane?</p> <p>14 A. I would have to go back out and look at it.</p> <p>15 But I do believe that it would -- if it did</p> <p>16 not fit in it, that it would have come very</p> <p>17 close to fitting in it.</p> <p>18 Q. And if it didn't fit in it and it was sitting</p> <p>19 there to make a left-hand turn, then --</p> <p>20 A. It would have been in the left lane or -- or</p> <p>21 part of the trailer would have been in the</p> <p>22 left lane.</p> <p>23 Q. Did you ever make any measurements as to the</p>
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<p>1 A. No, I didn't have to do that, in that that was</p> <p>2 a newly constructed roadway. And I know that</p> <p>3 the general specifications of the lane of</p> <p>4 traffic, what they are, in relationship to --</p> <p>5 to what was present. And they -- they were</p> <p>6 all within, what I felt to be, the guidelines</p> <p>7 by the federal government.</p> <p>8 Q. How wide would those lanes be?</p> <p>9 A. I believe they are 11 feet.</p> <p>10 Q. And they appeared, at least to you, to be</p> <p>11 within that?</p> <p>12 A. Correct.</p> <p>13 Q. Now, what about the turning lane; do you know</p> <p>14 what that has to be?</p> <p>15 A. Same thing. At -- at it's -- at the end of</p> <p>16 that turning lane, it has to be a standard</p> <p>17 lane of traffic.</p> <p>18 Q. So it would be 11-feet wide?</p> <p>19 A. Yes, it would.</p> <p>20 Q. How long would that turn lane be?</p> <p>21 A. I don't know. It would depend on -- upon the</p> <p>22 terrain of the -- of that particular location.</p> <p>23 And I don't recall what it is.</p>	<p>1 median, the width of the median, if you're</p> <p>2 looking -- I guess you'd be looking north?</p> <p>3 A. You'd be looking east to west.</p> <p>4 Q. Yes. You're correct. I'm sorry. Well, if</p> <p>5 you're trying to make a left-hand turn to go</p> <p>6 back the way Mr. Martin intended to go, if</p> <p>7 you're sitting there waiting to make that turn</p> <p>8 in the median, you're looking which direction?</p> <p>9 A. Well, to take the measurements of the</p> <p>10 particular median there, you would be taking</p> <p>11 your measurements, as an example, from west to</p> <p>12 east or east to west and then from north to</p> <p>13 south or south to north.</p> <p>14 Q. Right. But as you got -- in Plaintiffs'</p> <p>15 Exhibit 1, you've got Mr. Martin coming to</p> <p>16 rest, he's looking -- he would be looking</p> <p>17 north, correct?</p> <p>18 A. That is correct.</p> <p>19 Q. Did you inspect any of the lights on the</p> <p>20 tractor trailer?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And did they all seem to be operational and</p> <p>23 functioning properly to you?</p>

15 (Pages 57 to 60)

## FREEDOM COURT REPORTING

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<p>1 A. Yes, they were.</p> <p>2 Q. Both on the tractor and the trailer?</p> <p>3 A. That's correct. However, I don't recall if</p> <p>4 the light in the center of the trailer on the</p> <p>5 lower portion of it, I don't recall if that</p> <p>6 light was still functioning or not or whether</p> <p>7 or not it had been broken in as a result of</p> <p>8 the accident.</p> <p>9 Q. Sitting here today, you don't have any</p> <p>10 information that's been made available to you</p> <p>11 that that light was not functioning properly?</p> <p>12 A. That's -- that's correct.</p> <p>13 Q. Okay. And with regards to the conspicuity</p> <p>14 tape on the trailer, was that all there?</p> <p>15 A. Yes, it was.</p> <p>16 Q. Am I understanding your opinions to be that</p> <p>17 had Mr. Martin utilized the left-hand turning</p> <p>18 lane, that a U-turn right there would have</p> <p>19 been a proper maneuver?</p> <p>20 A. Say your question one more time.</p> <p>21 Q. I understand your criticism of Mr. Martin to</p> <p>22 be that he started, at least in part, that --</p> <p>23 A. Okay. To start off with, I never criticized</p>	<p>1 turn lane, would that U-turn be proper?</p> <p>2 A. Yes.</p> <p>3 Q. I just want to make sure that this wasn't a</p> <p>4 situation of roadway where under no</p> <p>5 circumstances can you make a U-turn.</p> <p>6 A. Oh, no. If he had been in the left -- the</p> <p>7 left-turn lane, that would have been a proper</p> <p>8 maneuver.</p> <p>9 Q. So I just wanted to establish under the</p> <p>10 Alabama Rules of the Road that that was not a</p> <p>11 per se violation by attempting to make a</p> <p>12 U-turn there?</p> <p>13 A. No.</p> <p>14 Q. And what about if he had attempted to make</p> <p>15 that U-turn from the left-hand lane?</p> <p>16 A. Technically, he would have been in violation</p> <p>17 of the law. However, I think that</p> <p>18 jurisprudence needs to step in at some point</p> <p>19 in time. And I can tell that I, myself -- not</p> <p>20 speaking for any other officers, but I,</p> <p>21 myself, would not have cited him for</p> <p>22 initiating that turn from the left-hand --</p> <p>23 from the inside lane.</p>
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<p>1 Mr. Martin.</p> <p>2 Q. Okay. You have no criticisms of how he</p> <p>3 handled his tractor trailer on this --</p> <p>4 A. Okay. But I -- I think we're using a word</p> <p>5 possibly out of context in relationship to my</p> <p>6 investigation.</p> <p>7 Q. Okay.</p> <p>8 A. Okay.</p> <p>9 Q. And that's one thing that we've got to get on</p> <p>10 the same page about, so I'm referring to your</p> <p>11 discussing contributing factors earlier?</p> <p>12 A. Right.</p> <p>13 Q. And in particular the beginning of the</p> <p>14 left-hand maneuver from the right lane.</p> <p>15 A. Yes.</p> <p>16 Q. Which you understood to be him beginning in</p> <p>17 the right-hand lane.</p> <p>18 A. Right.</p> <p>19 Q. And that being a contributing circumstance, in</p> <p>20 your opinion, to this accident.</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. Now, my question to you is simply, had</p> <p>23 he begun that left-hand turn in the left-hand</p>	<p>1 Q. Is that because tractor trailers are difficult</p> <p>2 to maneuver and it may be quite possible that</p> <p>3 he couldn't even fit the entire tractor</p> <p>4 trailer in the left-hand turn lane?</p> <p>5 MR. HAYES: Object to the form.</p> <p>6 A. I would say that in my experience as having</p> <p>7 driven a tractor trailer that it takes more</p> <p>8 room, more terrain to maneuver a vehicle, to</p> <p>9 make that type of a driving maneuver than it</p> <p>10 would a passenger car.</p> <p>11 Q. So if Mr. Martin did, in fact, believe that he</p> <p>12 was in the left-hand lane beginning his turn</p> <p>13 in the left-hand lane, you would find that to</p> <p>14 be a more reasonable state of mind as to the</p> <p>15 maneuver he was endeavoring to make. Would</p> <p>16 that be true?</p> <p>17 A. I would say that had he initiated his turn</p> <p>18 while inside the lane, the left lane, that, in</p> <p>19 my opinion, it would be less critical or less</p> <p>20 contributing of a circumstance than from where</p> <p>21 he actually did begin his maneuver which was</p> <p>22 in the right-hand lane.</p> <p>23 Q. So if we assume what you're saying is, in</p>

16 (Pages 61 to 64)

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<p>1 fact, the case, that Mr. Martin believed he</p> <p>2 was in the left-hand lane when he began that</p> <p>3 maneuver, then you would find less fault with</p> <p>4 his decision-making process with respect to</p> <p>5 the maneuver he actually made?</p> <p>6 A. I would find less fault with</p> <p>7 his decision-making process of that maneuver.</p> <p>8 Q. As he understood it?</p> <p>9 A. As he understood of where he thought that he</p> <p>10 was vice where he was actually was.</p> <p>11 Q. How did you determine who was driving the</p> <p>12 Chevy?</p> <p>13 A. From conversation with the two people in the</p> <p>14 vehicle and with the driver of the tractor</p> <p>15 trailer.</p> <p>16 Q. And you understood that to whom after you had</p> <p>17 spoken with folks -- parties?</p> <p>18 A. Scott Lawson I think it is. Yes, Scott</p> <p>19 Lawson.</p> <p>20 Q. And you had a conversation, I assume, with</p> <p>21 both Scott and Steven about how the accident</p> <p>22 sequence unfolded?</p> <p>23 A. That's correct. That conversation was</p>	<p>1 that he knew he was driving about 45'ish. As</p> <p>2 he was coming up the hill, he could see the</p> <p>3 tractor trailer in the right-hand lane, the</p> <p>4 outside lane.</p> <p>5 Q. Let me stop you right there. Did he tell you</p> <p>6 or do you have any sort of judgment as to how</p> <p>7 far back he was when he first saw the tractor</p> <p>8 trailer?</p> <p>9 A. No, he did not. He said that -- he said that</p> <p>10 they had come out of the bottom and were</p> <p>11 coming up the hill. So I would say that he</p> <p>12 was probably at the bottom of the hill,</p> <p>13 traveling east on Highway 84.</p> <p>14 Q. And you're familiar with that terrain, the</p> <p>15 layout of the roadway right there?</p> <p>16 A. Yes.</p> <p>17 Q. And sitting here today, since he gave you that</p> <p>18 landmark or point of reference, for lack of a</p> <p>19 better word, do you have a judgment as to how</p> <p>20 far back he would have been from the tractor</p> <p>21 trailer?</p> <p>22 A. I would say several hundred feet.</p> <p>23 Q. Okay. Go ahead.</p>
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<p>1 conducted independent of each other.</p> <p>2 Q. You read my mind.</p> <p>3 Did you speak with Scott first or Steven</p> <p>4 first?</p> <p>5 A. I actually spoke with Scott first.</p> <p>6 Q. And what do you specifically remember Scott</p> <p>7 telling you? And, again, I apologize for</p> <p>8 rehashing this. But I want to know exactly</p> <p>9 what you remember each of these fellows</p> <p>10 telling you individually?</p> <p>11 A. To paraphrase what both stated was, they were</p> <p>12 driving to Andalusia to the -- I believe they</p> <p>13 said on the way to their house. They were in</p> <p>14 the inside lane. They were driving about</p> <p>15 45'ish. They had just gone down the hill, and</p> <p>16 so they were driving about 45, 50 miles an</p> <p>17 hour. They were -- both -- the driver knew</p> <p>18 that he was driving right around the speed</p> <p>19 limit because that's -- at that time, it was a</p> <p>20 heavily enforced traffic area because it goes</p> <p>21 into a construction zone. So he knew that.</p> <p>22 He also knew that it was raining and that the</p> <p>23 road was wet and that it was dark. So he said</p>	<p>1 A. As they came up on the rear of the tractor,</p> <p>2 the tractor suddenly, according to what I can</p> <p>3 remember them saying, the tractor suddenly</p> <p>4 turned to the left, turning right in front of</p> <p>5 them, and that they slammed on the brakes and</p> <p>6 were trying to turn the -- turn the car to the</p> <p>7 left to -- to avoid the collision.</p> <p>8 Q. Let me ask you something. Did they tell</p> <p>9 you that they were -- did Scott tell you if he</p> <p>10 was in the right-hand lane as he approached</p> <p>11 the -- when he first saw the tractor trailer?</p> <p>12 A. Inside lane which would be the left lane.</p> <p>13 Q. He told you, he was in the left lane?</p> <p>14 A. The inside lane which is the left lane. The</p> <p>15 tractor trailer was in the right lane.</p> <p>16 Q. So he never told you that he was ever over in</p> <p>17 the right-hand lane?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Did he tell you if he braked right when he</p> <p>20 first saw the tractor trailer?</p> <p>21 A. No, he did not. He did not begin braking</p> <p>22 until the tractor trailer began its maneuver to</p> <p>23 the left, turning in front of him.</p>

17 (Pages 65 to 68)

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1 Q. Did he tell you if he perceived the tractor  
2 trailer to be moving, stopped, or give you any  
3 sort of judgment as to speed?  
4 A. No, he did not.  
5 Q. So he didn't specify if he believed the  
6 tractor trailer was stopped or moving at that  
7 point in time?  
8 A. But at the same time, he didn't tell me that  
9 it was stopped or that it wasn't moving.  
10 Q. Fair enough. Did he say if his flashers were  
11 on, emergency flashers?  
12 A. No, the emergency flashers were not on. As  
13 they were approaching the tractor trailer, the  
14 left turn signal wasn't even on.  
15 Q. And how do you know that?  
16 A. Because I had asked that question.  
17 Q. This is all information being provided by  
18 occupants of the Chevy?  
19 A. By the -- yes, independent of each other.  
20 Q. You didn't endeavor to do any sort of hot or  
21 cold shine analysis of any of the lights on  
22 the trailer to figure out whether or not they  
23 were incandescent at the time of impact, did

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1 you?  
2 A. It wasn't necessary to do that.  
3 Q. Again, because you were relying upon the  
4 information provided by the parties?  
5 A. And the fact that the -- yeah, by both  
6 parties -- by both parties involved in the  
7 accident and -- and the fact that when I had  
8 arrived there, that the lights were all  
9 operational on the tractor -- tractor and  
10 trailer.  
11 Q. Did the driver of the tractor ever tell you  
12 that he had engaged his left-hand turn signal  
13 before the impact?  
14 A. I want to say that he did tell me that -- that  
15 he turned on his left turn signal as he began  
16 turning to the left.  
17 Q. Assume for me that that tractor trailer is  
18 moving very slowly. In fact, you have a speed  
19 for that tractor trailer on your accident  
20 report, correct?  
21 A. Yeah, about ten miles an hour because he had  
22 just come off the shoulder of the road. Just  
23 prior to the accident, had come off the

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1 shoulder of the road where he was -- I'd say  
2 probably about a third way back down the hill.  
3 Q. Now, do you know why he had come off the  
4 shoulder of the road?  
5 A. Yeah. I stated earlier that he stopped on the  
6 shoulder of the road, trying to find out where  
7 it was that he needed to go in Andalusia and  
8 realized that he needed to make a U-turn.  
9 Q. Do you have any sort of judgement, if he was  
10 traveling slowly in the right outside lane at  
11 about ten miles an hour, how much time it  
12 takes for him to get from the time he  
13 initiates that left-hand maneuver from the  
14 right-hand lane over to where you believe his  
15 vehicle came to rest -- the tractor came to  
16 rest? Do you know how much --  
17 A. I would say a couple of seconds.  
18 Q. And what's that based on?  
19 A. Based on my having operated a tractor trailer  
20 in the -- in the past.  
21 Q. Would that necessitate -- if he's going about  
22 ten miles an hour, would that necessitate a  
23 gear shift, assuming it's a ten speed?

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1 A. Let's see a second. He was -- in my  
2 estimation, if this were a ten speed with a  
3 Roadranger, I'd say that he was probably  
4 in -- probably in third, maybe fourth gear.  
5 Q. And based upon your experience in driving  
6 tractor trailers, at that weight that we've  
7 discussed at ten miles an hour, would that  
8 maneuver necessitate an upshift?  
9 A. Well, he would have had -- probably had a  
10 upshift coming from -- he probably left the  
11 shoulder of the road in second, probably  
12 immediately went to third. And that's why I  
13 say he was probably -- as he was beginning his  
14 maneuver, I would say probably in third or  
15 fourth gear. He may have even at that point,  
16 as he began to make his maneuver, he may have  
17 downshifted to second. But I would say he was  
18 probably in -- in -- most likely in third  
19 gear, could possibly have been in either  
20 second, third, or fourth.  
21 Q. So that's another factor that we got,  
22 increasing the passage of time or for him to  
23 make that maneuver; fair enough?

18 (Pages 69 to 72)



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<p style="text-align: right;">Page 73</p> <p>1 A. Say your question again.</p> <p>2 Q. Downshifting or upshifting in order to make</p> <p>3 that maneuver is going to increase the passage</p> <p>4 of time needed to complete the maneuver?</p> <p>5 A. No, it's not if it's a simultaneous operation.</p> <p>6 Q. But you believe it would have taken two</p> <p>7 seconds for his --</p> <p>8 A. I didn't say that. I said, it would have</p> <p>9 taken a couple of seconds -- several seconds</p> <p>10 to make the maneuver.</p> <p>11 Q. I'm just trying to get a judgment as to what</p> <p>12 you believe the passage of time would have</p> <p>13 been for him to move from the right-hand lane</p> <p>14 over to where his vehicle came to rest.</p> <p>15 A. I would say several seconds.</p> <p>16 Q. Okay. Back to Mr. Lawson as he's approaching</p> <p>17 from the rear, assuming that the trailer</p> <p>18 lights were shining, he should have been able</p> <p>19 to see those. Is that a fair statement?</p> <p>20 A. That if the lights were illuminated and that</p> <p>21 he would have seen those. And he did because</p> <p>22 he said that he saw the tractor trailer as he</p> <p>23 was approaching it from the rear.</p>	<p style="text-align: right;">Page 75</p> <p>1 A. I may or may not have.</p> <p>2 Q. And if Mr. Lawson -- Scott Lawson approaches</p> <p>3 the tractor trailer from the rear, given the</p> <p>4 weather conditions, the poor lighting that</p> <p>5 night, and he first sees it several hundred</p> <p>6 feet away and perceives it to be stopped or</p> <p>7 moving very slowly, would you agree with me</p> <p>8 that braking at that point would be a</p> <p>9 reasonable maneuver?</p> <p>10 A. No.</p> <p>11 Q. So if you are driving down the wet roadway on</p> <p>12 a poorly lit evening and a vehicle is several</p> <p>13 hundred feet in front of you and you perceive</p> <p>14 it as being stopped or moving very slowly,</p> <p>15 braking is not advisable?</p> <p>16 A. No, that's not the question you asked me.</p> <p>17 Q. Well, that is my question in general terms.</p> <p>18 A. Well, is that -- is that vehicle blocking your</p> <p>19 lane? Is that vehicle blocking your ability</p> <p>20 to move freely through traffic?</p> <p>21 Q. Fair enough. Good point. Assume for me that</p> <p>22 you're -- Mr. Lawson is in the right-hand</p> <p>23 lane, right directly behind the tractor</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. And if that blinker was engaged, there's</p> <p>2 nothing about the roadway or what you found</p> <p>3 out there that evening in the course of your</p> <p>4 investigation that would have obstructed his</p> <p>5 vision if that blinker was engaged?</p> <p>6 A. Well, it would depend on what time in</p> <p>7 relationship to where he was at that they --</p> <p>8 that the turn signals were engaged and that</p> <p>9 the driver actually began his maneuver. If he</p> <p>10 was already on the rear of the tractor trailer</p> <p>11 and the driver didn't see him and then engaged</p> <p>12 his turn signal, then, no, he would not have</p> <p>13 seen it.</p> <p>14 Q. And do you know, sitting here today, based on</p> <p>15 any information from whatever source given to</p> <p>16 you, how long before Mr. Martin started his</p> <p>17 maneuver that he actually engaged his blinker?</p> <p>18 A. No, I don't.</p> <p>19 Q. And did either of the Lawson fellows tell you</p> <p>20 that they saw the blinker?</p> <p>21 A. I don't recall if they did or not.</p> <p>22 Q. That would have been something you would have</p> <p>23 asked though, correct?</p>	<p style="text-align: right;">Page 76</p> <p>1 trailer.</p> <p>2 A. Well, if he's in the right-hand lane, then,</p> <p>3 yes, I -- I would probably at least do an</p> <p>4 initial brake, turn on left turn signal, move</p> <p>5 into the left-hand land in attempt to move</p> <p>6 around it -- maneuver around it.</p> <p>7 Q. It's never advisable when --</p> <p>8 A. But that's not where Mr. Lawson said that he</p> <p>9 was at. Mr. Lawson said he was in the inside</p> <p>10 lane.</p> <p>11 Q. I understand. I'm just going by what -- my</p> <p>12 hypothetical. If Mr. Lawson says that he came</p> <p>13 up on that tractor trailer and was in the</p> <p>14 right-hand lane --</p> <p>15 A. And I may not brake. I may turn on my left</p> <p>16 turn signal, make a safe -- safe and proper</p> <p>17 lane change into the left-hand lane and</p> <p>18 proceed past him in a normal rate of speed.</p> <p>19 Q. But if a vehicle --</p> <p>20 A. Because I had no indication that he would have</p> <p>21 been attempting to maneuver into my lane of</p> <p>22 traffic.</p> <p>23 Q. Right. But I'm just asking you in general.</p>

19 (Pages 73 to 76)



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1 You've never advised people -- motorists in  
 2 general to simply drop over into another lane  
 3 and never decrease the speed and overtake a  
 4 vehicle that you perceive to be stopped or  
 5 going ten miles an hour without braking?  
 6 A. I didn't say that. And I didn't  
 7 say that -- and I'm not saying that I would  
 8 never not advise somebody to do that because  
 9 I've had plenty of times myself, as I'm sure  
 10 that you probably have, when traveling down  
 11 the highway that there's a slower vehicle in  
 12 front of you. When you're coming up behind a  
 13 slower vehicle on the interstate where you're  
 14 traveling 70 and that vehicle may be traveling  
 15 50, do you brake before you make a maneuver?  
 16 Most people don't. Most people make the lane  
 17 change and then safely proceed past of it.  
 18 So I think it would just depend upon the  
 19 totality of the situation. But in that  
 20 particular instance, I don't think that I  
 21 would have tapped my brakes. I think that I  
 22 would have made a lane change and proceeded  
 23 safety past the vehicle.

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1 Q. And proceeding safely past the vehicle, in  
 2 your opinion, would not have included braking  
 3 when you perceive a vehicle moving slowly, if  
 4 not stopped, several hundred feet in front of  
 5 you?  
 6 A. Are you still using the hypothetical that this  
 7 vehicle was stopped or this vehicle was  
 8 traveling slow, or are you using the  
 9 realization that that vehicle was traveling  
 10 slow?  
 11 Q. Just assume for me that that vehicle was  
 12 traveling very slowly, as you have it marked  
 13 ten miles an hour.  
 14 A. But, see, you keep saying traveling slowly or  
 15 stopped. Which is it? Is the vehicle  
 16 stopped?  
 17 Q. Okay. Stopped.  
 18 A. If the vehicle is stopped in the roadway, does  
 19 it have its four-way flashers on?  
 20 Q. No.  
 21 A. Does it have anything indicating to me as I'm  
 22 approaching that vehicle that there's any type  
 23 of safety concern that I need to be worried

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1 with concerning that vehicle being stopped in  
 2 that lane of traffic --  
 3 Q. None other than --  
 4 A. -- like it's broke down or something?  
 5 Q. None other than it being stopped in the  
 6 roadway directly in front of you.  
 7 A. Then -- then, no. I may slow down by taking  
 8 my foot off the accelerator. But that doesn't  
 9 necessarily mean that I'm going to brake.  
 10 That's me.  
 11 You may not do that. Matter of fact, you  
 12 may perceive as a danger that that vehicle is  
 13 there, and you may want to get past that  
 14 vehicle as quickly as possible. You may speed  
 15 up. So I don't know. It would depend and be  
 16 based on the totality of circumstances.  
 17 Q. Well, certainly, one is going to be more  
 18 advisable from a law enforcement standpoint  
 19 than another when you're advising motorists.  
 20 I mean, certainly, you would never advise  
 21 anyone to get on the accelerator when they are  
 22 overcoming a vehicle that they perceive to be  
 23 stopped in their lane of travel.

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1 A. Again, it's going to depend upon the totality  
 2 of the circumstances. I think I've answer  
 3 that about four times now.  
 4 Q. Do you know if there was any other traffic  
 5 around any of these vehicles as they were --  
 6 as this accident sequence was unfolding?  
 7 A. Both -- both drivers informed me that they did  
 8 not remember seeing any other traffic at the  
 9 time of the accident.  
 10 Q. And you testified earlier, you did see some  
 11 skid marks that you believe were left by the  
 12 Chevy?  
 13 A. Actually, I clarified that in stating that  
 14 because of the conditions of the roadway,  
 15 those would actually be called or determined  
 16 to be yaw marks. And that difference being  
 17 that after the terrain was completely dry and  
 18 all, that those marks may or may not have  
 19 remained on the roadway for any -- any length  
 20 of time beyond that evening.  
 21 Q. Did you determine that the Chevy put down  
 22 those yaw marks?  
 23 A. Yes, I did.

20 (Pages 77 to 80)

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<p>1 Q. And how did you go about doing that?</p> <p>2 A. Because the marks, from where they began and</p> <p>3 where they ended, went right to the tires --</p> <p>4 the front tires of the vehicle.</p> <p>5 Q. How long were they?</p> <p>6 A. I didn't measure them but --</p> <p>7 Q. If you have a judgment.</p> <p>8 A. I would say probably about maybe 60 or so</p> <p>9 feet, give or take.</p> <p>10 Q. Did they ever deviate from the left-hand lane?</p> <p>11 A. Actually, the -- it began in the left-hand</p> <p>12 lane, going into the left turn lane. And then</p> <p>13 at point of impact, the tractor trailer</p> <p>14 actually moved the vehicle from facing in a</p> <p>15 north, northeasterly direction to more of a</p> <p>16 north, northeasterly direction. And the</p> <p>17 tractor -- or excuse me -- the trailer</p> <p>18 physically moved the vehicle. And that was</p> <p>19 the determination by -- where the point of</p> <p>20 impact of the tires actually being rubbed</p> <p>21 as -- to the left or to the north as the</p> <p>22 tractor was pushing it.</p> <p>23 Q. Do you have a judgment as to how far the</p>	<p>1 you that those vehicles were moved at all from</p> <p>2 the time they came to rest until you arrived</p> <p>3 on the scene.</p> <p>4 A. No, they weren't. Actually, I had the tractor</p> <p>5 trailer back up and reposition itself a little</p> <p>6 bit so that the wrecker could hook to the car.</p> <p>7 Q. Where in the roadway do you believe the point</p> <p>8 of impact to have been?</p> <p>9 A. I would say that the point of impact took</p> <p>10 place in the right-hand -- excuse me -- in the</p> <p>11 left-hand lane, which would be the inside</p> <p>12 lane. And as shown here in the diagram, if I</p> <p>13 could use this ink pen here, I would say that</p> <p>14 this vehicle right here (indicating) as it</p> <p>15 skidded up to here (indicating), right in this</p> <p>16 area here (indicating), the point of impact</p> <p>17 would be right in here.</p> <p>18 Q. So the point of impact would have been on</p> <p>19 the --</p> <p>20 A. Somewhere in here (indicating).</p> <p>21 Q. Right about the fog line -- well, that's -- I</p> <p>22 don't know if you would describe that as the</p> <p>23 fog line. It would be the outside line --</p>
Page 82	Page 84
<p>1 tractor trailer and the Chevy traveled? I</p> <p>2 guess they're traveling while they're</p> <p>3 connected -- while they're together?</p> <p>4 A. You're talking about at the point of impact.</p> <p>5 I would say probably about 5 feet, 5 to 7</p> <p>6 feet, something like that.</p> <p>7 Q. And they would have remained connected during</p> <p>8 that --</p> <p>9 A. Yes, they did.</p> <p>10 Q. -- 5 feet of postimpact travel?</p> <p>11 A. That's correct.</p> <p>12 Q. And when they came to rest, they came to rest</p> <p>13 connected still?</p> <p>14 A. That is correct. With the -- with the front</p> <p>15 end of the automobile -- actually the front</p> <p>16 right portion of the automobile is still</p> <p>17 underneath the -- the tractor.</p> <p>18 Q. And is that how you found the vehicles to be</p> <p>19 when you arrived on the scene?</p> <p>20 A. Yes. It's -- it's actually shown here in the</p> <p>21 diagram.</p> <p>22 Q. I'm just trying to find out, Officer McGowin,</p> <p>23 if you have any information that indicated to</p>	<p>1 we'll call it fog line to the left-hand lane</p> <p>2 and the right side line from the turning</p> <p>3 lane. Right about where the left-hand lane</p> <p>4 and the left-hand turn lane come together.</p> <p>5 Would that be a fair assessment for that?</p> <p>6 A. I don't know. Would you repeat the question</p> <p>7 again?</p> <p>8 Q. I'm just doing it verbally for Record.</p> <p>9 A. Yea.</p> <p>10 Q. It looks to me as if you're indicating that</p> <p>11 the point of impact on the roadway would have</p> <p>12 been right about where the left-hand lane and</p> <p>13 the left-hand turn lane come together.</p> <p>14 A. Can I make an illustration on here?</p> <p>15 Q. Absolutely.</p> <p>16 A. Okay. I would say that your point of impact,</p> <p>17 that the vehicle was something like this</p> <p>18 (indicating). Okay. So if that answers your</p> <p>19 question of where I kept telling you earlier</p> <p>20 that at the point of impact that the -- that</p> <p>21 the car was, at least, partially in the</p> <p>22 turning area of -- of this turn lane.</p> <p>23 Q. Do you have an opinion as to whether or not</p>

21 (Pages 81 to 84)

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<p>1 the tractor trailer was still moving or if it</p> <p>2 had come to rest waiting to make this --</p> <p>3 A. No, it was still moving.</p> <p>4 Q. And what is that based upon?</p> <p>5 A. That's based on the fact that the -- where the</p> <p>6 point of impact took place at vice where the</p> <p>7 final resting point of both vehicles were</p> <p>8 that.</p> <p>9 Q. Were there marks or gouges in the roadway that</p> <p>10 indicated to you where the initial point of</p> <p>11 impact occurred on the roadway?</p> <p>12 A. Yes, there were.</p> <p>13 Q. So there were -- in addition to the yaw marks</p> <p>14 that we discussed earlier, there were also</p> <p>15 some gouge marks from the point of impact or</p> <p>16 scrapes or something of that nature?</p> <p>17 A. Yeah. There was evidence there of where the</p> <p>18 point of impact actually occurred.</p> <p>19 Q. But the rest position was different from where</p> <p>20 that point of impact was?</p> <p>21 A. That's correct. The rest position was</p> <p>22 to -- was further to the north, I would say,</p> <p>23 by about 5 to 7 feet.</p>	<p>1 A. Just trash.</p> <p>2 MR. JONES: Can we take just a quick break</p> <p>3 right here?</p> <p>4 MR. RICHMOND: Yeah. I'm almost done.</p> <p>5 MR. JONES: Off the Record.</p> <p>6 (Off-the-Record discussion)</p> <p>7 MR. JONES: Back on.</p> <p>8 Q. Let me ask you a quick question dealing with</p> <p>9 Mr. Scott Lawson's approach to the scene.</p> <p>10 When you first saw the rear of that tractor</p> <p>11 trailer -- and you told me that in your best</p> <p>12 judgment, based on where he told you he would</p> <p>13 have been in the roadway when he first saw it,</p> <p>14 that would have been several hundred feet</p> <p>15 back. Assume for me that he was, in fact,</p> <p>16 traveling the speed that he told you he was</p> <p>17 traveling, roughly 45 miles an hour. If he</p> <p>18 was in the --</p> <p>19 A. Actually, he told me he was driving along</p> <p>20 about 45, 50 miles per hour. And the evidence</p> <p>21 that was at the scene is consistent with the</p> <p>22 vehicle of that make and model traveling at</p> <p>23 about that speed.</p>
Page 86	Page 88
<p>1 Q. And was there physical evidence indicating to</p> <p>2 you that the vehicles had moved or scraped on</p> <p>3 the roadway postimpact? See what I'm saying?</p> <p>4 The 5 feet of travel postimpact that we</p> <p>5 discussed earlier?</p> <p>6 A. Right.</p> <p>7 Q. I'm curious that that is something that you're</p> <p>8 surmising, or you saw physical evidence of</p> <p>9 that?</p> <p>10 A. No. It's just like I told you. The yaw</p> <p>11 marks, the skid marks went all the way up to</p> <p>12 where the point of impact was, and then you</p> <p>13 could see the skid marks on the roadway and</p> <p>14 gouges on the roadway from where the vehicle</p> <p>15 was actually moved to the left or to the north</p> <p>16 about 5 to 7 feet.</p> <p>17 Q. These fellows, was there any fast food or</p> <p>18 fried chicken in the car? Had they told you</p> <p>19 where they had been?</p> <p>20 A. I don't recall if there was anything in the</p> <p>21 vehicle. I can tell you, there was a lot of</p> <p>22 material -- excess material in the vehicle.</p> <p>23 Q. Of what sort?</p>	<p>1 Q. Okay. And he's in the right-hand lane and he</p> <p>2 perceives the tractor trailer to be --</p> <p>3 A. Yeah, but he's in the left-hand lane.</p> <p>4 Q. I'm asking you to assume for me.</p> <p>5 A. Now we're back to assumptions.</p> <p>6 Q. Yes. Assume for me he's in the right-hand</p> <p>7 lane. Okay? And he perceives that tractor</p> <p>8 trailer to be stopped. Would he have had</p> <p>9 enough distance to bring that Chevy Lumina to</p> <p>10 a controlled stop?</p> <p>11 A. A person -- I'm not -- because this is your</p> <p>12 assumption, so I'm going to assume, too. A</p> <p>13 person, not Mr. Lawson but any person, you.</p> <p>14 Do I believe that you in this assumption may</p> <p>15 have been able to bring that vehicle to a safe</p> <p>16 stop? If you had desired to. I also believe</p> <p>17 that you in your assumption, if you were</p> <p>18 driving that vehicle, would have been able to</p> <p>19 safely maneuver to the left-hand lane and</p> <p>20 safely pass that vehicle traveling at that</p> <p>21 speed in your assumption.</p> <p>22 Q. I'm just asking you if he had enough</p> <p>23 distance. I'm not asking you to comment on</p>

22 (Pages 85 to 88)

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<p>1 what would have been proper or what maneuver</p> <p>2 was proper. Just if he's several hundred feet</p> <p>3 back going about 43 miles an hour, if he had</p> <p>4 so chosen, could he have brought that vehicle</p> <p>5 to a controlled stop?</p> <p>6 A. Now, you're saying at 43 miles per hour.</p> <p>7 Q. Excuse me. Forty-five.</p> <p>8 A. Then I would say that a reasonably prudent</p> <p>9 individual operating a motor vehicle from that</p> <p>10 distance, traveling at that speed and those</p> <p>11 road conditions, in all likelihood would</p> <p>12 probably be able to bring a vehicle, most any</p> <p>13 vehicle, to a safe stop in your assumption.</p> <p>14 Q. Are you aware of any witnesses to the</p> <p>15 accident?</p> <p>16 A. Not -- none that I can recall. If there were</p> <p>17 witnesses, then they would be listed on this</p> <p>18 second sheet right here (indicating). And</p> <p>19 where it say "witnesses," I don't have any</p> <p>20 names listed.</p> <p>21 Q. What was the posted speed limit out there?</p> <p>22 A. Forty-five miles per hour.</p> <p>23 Q. Did you review anything --</p>	<p>1 them went to the accident (sic). But if I</p> <p>2 recall, both of them -- either one or both of</p> <p>3 them did later on go to the emergency room.</p> <p>4 Q. And how do you know that?</p> <p>5 A. I, usually during the course of my patrolling</p> <p>6 during the night, I usually stop by the</p> <p>7 emergency room just to, you know --</p> <p>8 Q. Did you do that in this instance?</p> <p>9 A. Seems like I did.</p> <p>10 Q. Do you remember what emergency room?</p> <p>11 A. It would have been the Andalusia Regional</p> <p>12 Hospital Emergency Room.</p> <p>13 Q. And do you recall seeing Scott and Steven</p> <p>14 Lawson at that emergency room the night of the</p> <p>15 accident?</p> <p>16 A. I couldn't tell you if I did or didn't. I --</p> <p>17 I don't recall. If I did, all I would have</p> <p>18 done was just made the observation that they</p> <p>19 were there.</p> <p>20 Q. Have you spoken with either one of those</p> <p>21 gentlemen since the accident happened?</p> <p>22 A. No, I haven't. As a matter of fact, I don't</p> <p>23 even know them.</p>
Page 90	Page 92
<p>1 A. Actually, if I'm not mistaken I think the</p> <p>2 speed limit was actually -- I'm having to</p> <p>3 think now. Yeah. Forty-five miles per hour</p> <p>4 because the construction signs were up. And</p> <p>5 the reason I say that is because right in</p> <p>6 front of Jones Veterinary Clinic is a 55 mile</p> <p>7 per hour speed limit sign where you're</p> <p>8 traversing from a 45 zone into a 55 zone. But</p> <p>9 during that time period, that sign was covered</p> <p>10 up by the department of -- Alabama Department</p> <p>11 of Transportation. And there were 45 signs</p> <p>12 that were posted. And I just had to remember</p> <p>13 that in my mind.</p> <p>14 Q. Let me ask you this, Officer McGowin. Did</p> <p>15 either Scott Lawson or Steven Lawson tell you</p> <p>16 they were hurt on the scene?</p> <p>17 A. Both of them did not use the word "hurt," but</p> <p>18 both of them did tell me that they had been</p> <p>19 banged up.</p> <p>20 Q. But neither one of them, to your knowledge,</p> <p>21 went to the emergency room that night by</p> <p>22 ambulance from the scene?</p> <p>23 A. By ambulance from the scene, neither one of</p>	<p>1 Q. Did you review anything other than your</p> <p>2 accident report in preparation for your</p> <p>3 deposition today?</p> <p>4 A. That's -- and, actually, I looked at it this</p> <p>5 morning when I got here.</p> <p>6 Q. And I'm curious if you reviewed any other</p> <p>7 documents?</p> <p>8 A. No.</p> <p>9 Q. Okay. None of the lawyers involved in the</p> <p>10 case have got you to review any documents to</p> <p>11 look at anything other than your accident</p> <p>12 report before your deposition?</p> <p>13 A. Actually, they didn't even offer me the</p> <p>14 accident report. I asked for it.</p> <p>15 Q. Did either Scott or Steven Lawson seem</p> <p>16 particularly agitated to you at the scene,</p> <p>17 upset?</p> <p>18 A. Yeah, I would say that they were upset. They</p> <p>19 were upset that they were involved in an</p> <p>20 accident and that they were upset that --</p> <p>21 Q. And I'm sorry. That was a poor question. Did</p> <p>22 one seem more so than the other to you, based</p> <p>23 on your recollection of the accident?</p>

23 (Pages 89 to 92)



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<p>1 A. I just recall that both of them were upset and 2 that -- actually, both of them were upset and 3 both of them were consoling each other. And 4 then as other family members of theirs 5 arrived, there was a -- the vast majority, I 6 felt, was concern for the safety of -- of the 7 guys -- two boys being involved in the 8 accident and the fact, you know, you know, 9 don't worry about the car because the car 10 actually didn't belong to them. It belonged 11 to someone else. Don't worry about the car. 12 Don't worry about what all has happened. You 13 know, the biggest thing is, you didn't get 14 killed. You didn't get seriously injured. 15 And -- and from the looks of the accident, 16 they -- had they been traveling faster, they 17 probably would have been very seriously 18 injured or killed.</p> <p>19 Q. Did you ever hear any conversations -- 20 overhear any conversations between Scott or 21 Steven Lawson and my client, Mr. Martin?</p> <p>22 A. It seems like that they -- it seems like I do 23 recall them speaking with each other. But it</p>	<p>1 Q. -- if it's a videotape or the photos. 2 Are there any other statements, notes, 3 data compilations, measurements?</p> <p>4 A. No.</p> <p>5 Q. All right. You've taken classes in accident 6 investigation and accident reconstruction, 7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And you did that in the military?</p> <p>10 A. Yes.</p> <p>11 Q. Have you ever done that in the private sector?</p> <p>12 A. Are you talking about as a civilian law 13 enforcement officer?</p> <p>14 Q. Yes, sir.</p> <p>15 A. Yes, I have. I've received training in 16 traffic accident investigation.</p> <p>17 Q. And that was at the Montgomery Police Academy?</p> <p>18 A. Montgomery Police Academy. And I've also 19 received some training from Alabama State 20 Troopers over the years.</p> <p>21 Q. Have you taken any classes in advanced 22 mathematics?</p> <p>23 A. Yes, I have.</p>
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<p>1 wasn't anything adversarial. It was -- seemed 2 like it was -- I want -- I kept going back to 3 Fredrick for some reason. I guess that's 4 Mr. Martin.</p> <p>5 Q. Yes, sir.</p> <p>6 A. You know, of those, oh, man, I'm sorry. 7 Normal things that would transpire during a 8 traffic accident. But I don't think that 9 there were any -- I don't recall there being 10 any finger pointing. I don't think -- I don't 11 recall there being, you know, an adversarial 12 tone between any of the parties involved. I 13 don't recall any of that.</p> <p>14 Q. Did you take any statements, written 15 statements from anyone?</p> <p>16 A. No, I did not.</p> <p>17 Q. Did you submit anything other than the 18 videotape into evidence at your department?</p> <p>19 A. Seems like I did turn in the -- either a 20 diskette or copies of the photos.</p> <p>21 Q. I'm going to send a subpoena. I'm just 22 curious what all would have been turned in --</p> <p>23 A. Right.</p>	<p>1 Q. And where did you take those?</p> <p>2 A. Campbell University out of -- which is out of 3 Blues Creek, North Carolina. And I've also 4 taken some courses in mathematics from Texas 5 Central College and also from City Colleges of 6 Chicago.</p> <p>7 Q. Have you obtained an associate's degree or a 8 bachelor's degree?</p> <p>9 A. Yes, I have.</p> <p>10 Q. Which one?</p> <p>11 A. I have an associate's degree in applied 12 sciences in education.</p> <p>13 Q. And from what university or college?</p> <p>14 A. That would be from Campbell University.</p> <p>15 Q. Campbell University.</p> <p>16 A. And then I've also got my courses that I've 17 attended for my bachelor's degree in business 18 in that. And in that, I took numerous classes 19 in accounting. And that was also through 20 Campbell University, accounting and 21 statistics.</p> <p>22 Q. Did you have any classes in physics?</p> <p>23 A. Other than -- I took a science class in</p>

24 (Pages 93 to 96)



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<p style="text-align: right;">Page 97</p> <p>1 physics years back.</p> <p>2 Q. What about in engineering?</p> <p>3 A. The education that I've received or advanced</p> <p>4 training that I've received in engineering was</p> <p>5 through the Marine Corps.</p> <p>6 Q. Are you a licensed engineer?</p> <p>7 A. No.</p> <p>8 Q. Do you consider yourself a forensic engineer?</p> <p>9 A. No.</p> <p>10 Q. Have you ever compiled a scale diagram of an</p> <p>11 accident scene?</p> <p>12 A. Yes, I have.</p> <p>13 Q. Have you ever used a total station?</p> <p>14 A. I'm sorry?</p> <p>15 Q. Do you know what a total station is?</p> <p>16 A. I've never used one.</p> <p>17 Q. But you're familiar with what they are?</p> <p>18 A. I -- no.</p> <p>19 Q. Have you ever shot -- well, strike that.</p> <p>20 How many scaled diagrams of accidents have</p> <p>21 you compiled?</p> <p>22 A. I couldn't tell you off the top of my head,</p> <p>23 but it -- it would be a very low number.</p>	<p style="text-align: right;">Page 99</p> <p>1 bad commercial motor vehicle DOT-reportable</p> <p>2 accidents. And I'm curious if the Andalusia</p> <p>3 Police Department has a similar counterpart.</p> <p>4 A. Well, those individuals that you're speaking</p> <p>5 of are those who are traffic homicide</p> <p>6 investigators who, in addition to that -- and</p> <p>7 in addition to the advanced training that they</p> <p>8 have received, have received an even more</p> <p>9 specialized training in the reconstruction of</p> <p>10 a traffic accident. Our officers -- we have</p> <p>11 two that I'm -- that I'm aware of that are</p> <p>12 traffic homicide investigators. There is one</p> <p>13 of those officers, Sergeant Finley, that I am</p> <p>14 aware of who has received advanced training in</p> <p>15 reconstruction of traffic accidents. So, yes,</p> <p>16 we do have that capability. No. Neither one</p> <p>17 of those individuals were called to this</p> <p>18 scene.</p> <p>19 Q. Have you ever compiled a report on a fatality</p> <p>20 accident that was ultimately given to the</p> <p>21 district attorney as potential evidence for</p> <p>22 going to grand jury?</p> <p>23 A. Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 Q. Have you ever done one in connection with a</p> <p>2 commercial motor vehicle accident?</p> <p>3 A. No.</p> <p>4 Q. Does the Andalusia Police Department have a</p> <p>5 homicide investigation team for traffic</p> <p>6 accidents?</p> <p>7 A. Yes, it does.</p> <p>8 Q. And does it have a group of officers who are</p> <p>9 certified to do the reconstruction for that</p> <p>10 particular team?</p> <p>11 A. I don't know about reconstruction, but I would</p> <p>12 surmise that as a traffic homicide</p> <p>13 investigator, that they have, at the very</p> <p>14 least, a general knowledge in that. And I</p> <p>15 also know that our department has the ability</p> <p>16 to do a forensics diagram of a traffic</p> <p>17 accident and that we have personnel that are</p> <p>18 trained in using forensics to --</p> <p>19 Q. I'm sure you're familiar with the Alabama</p> <p>20 State Troopers have a particular team, a</p> <p>21 reconstruction team. They have officers that</p> <p>22 receive additional training and certification</p> <p>23 to go out and reconstruct how the accidents --</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. On how many occasions have you done that?</p> <p>2 A. One that I can recall recently, recently</p> <p>3 being --</p> <p>4 Q. Maybe within the last five years maybe?</p> <p>5 A. I would say within the last two to three</p> <p>6 years.</p> <p>7 Q. Did that involve a commercial motor vehicle?</p> <p>8 A. No, it did not.</p> <p>9 Q. Are you certified by the Accreditation</p> <p>10 Commission for Accident Reconstruction?</p> <p>11 A. No, I am not.</p> <p>12 Q. Have you ever published an article in the area</p> <p>13 of accident reconstruction?</p> <p>14 A. No.</p> <p>15 Q. Have you ever spoken as a lecturer or panel</p> <p>16 speaker at a seminar or conference on accident</p> <p>17 reconstruction?</p> <p>18 A. No.</p> <p>19 Q. Have you ever taught a course dealing with</p> <p>20 accident reconstruction?</p> <p>21 A. I have taught a course in traffic accident</p> <p>22 investigation.</p> <p>23 Q. What course was that? Was that at the police</p>

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<p>1 academy?</p> <p>2 A. No. That was in the military and several</p> <p>3 years back when I was with the city back in</p> <p>4 the early 1980s or mid 1980s. The officers</p> <p>5 that were assigned to my shift, I taught them</p> <p>6 a class on traffic accident investigation.</p> <p>7 And most -- more specifically, how to fill out</p> <p>8 the traffic accident investigation form that</p> <p>9 -- that's used right here (indicating). And,</p> <p>10 however, that is a revised edition of the form</p> <p>11 that I had taught them then. And that was</p> <p>12 where I had gone to Montgomery and had</p> <p>13 received a class from Alabama Department of</p> <p>14 Public Safety and Alabama State Troopers on</p> <p>15 traffic accident investigation.</p> <p>16 Q. How long ago would it have been that you</p> <p>17 taught that course?</p> <p>18 A. That particular class would have been probably</p> <p>19 about 1985 time period.</p> <p>20 Q. How do you keep abreast of most recent traffic</p> <p>21 accident investigation techniques?</p> <p>22 A. I subscribe to several law enforcement</p> <p>23 publications which assist in that.</p>	<p>1 Q. And that leads right into my next question.</p> <p>2 Have you ever given a deposition before?</p> <p>3 A. Yes.</p> <p>4 Q. How many?</p> <p>5 A. I couldn't tell you. I'd say more than five.</p> <p>6 Q. Were those all in the Andalusia area?</p> <p>7 A. No.</p> <p>8 Q. Do you know what circuit court your deposition</p> <p>9 has been --</p> <p>10 A. I'm sorry?</p> <p>11 Q. What circuit court the case pending for which</p> <p>12 you gave a deposition was?</p> <p>13 A. Let's see. Two of them involved court</p> <p>14 martials -- three of them involved court</p> <p>15 martials.</p> <p>16 Q. And just to cut to the chase so we can get you</p> <p>17 out of here, have you ever given a deposition</p> <p>18 based upon giving testimony about your role as</p> <p>19 an investigator of an accident?</p> <p>20 A. No.</p> <p>21 Q. You've never given a civil deposition over a</p> <p>22 car wreck?</p> <p>23 A. Not that I -- not that I recall.</p>
Page 102	Page 104
<p>1 Q. Such as?</p> <p>2 A. Police One Magazine. It is -- is one way. I</p> <p>3 am also a member of NCEA which is National</p> <p>4 Criminal Enforcement Association. I've</p> <p>5 received -- I mean, I've gone to a couple of</p> <p>6 their conferences. There is a daily</p> <p>7 newsletter sent out by Police One and by NCEA.</p> <p>8 Q. Are any of these exclusively dealing with</p> <p>9 accident reconstruction?</p> <p>10 A. No.</p> <p>11 Q. And do you endeavor to -- and in the legal</p> <p>12 profession, we have to go to continuing legal</p> <p>13 education every year. Do you endeavor to do</p> <p>14 something along those lines in accident</p> <p>15 investigation and reconstruction on a yearly</p> <p>16 basis?</p> <p>17 A. Not specifically on traffic accident</p> <p>18 investigation. It will always depend on what</p> <p>19 courses are available. The -- my two -- I</p> <p>20 always say that the one that does relate to</p> <p>21 accident investigation or any type of</p> <p>22 investigation is a class on courtroom</p> <p>23 preparation for testimony.</p>	<p>1 Q. Are you a member of any organizations or</p> <p>2 societies that deal with accident</p> <p>3 reconstruction and investigation?</p> <p>4 A. No.</p> <p>5 Q. Have you ever been qualified in court, state</p> <p>6 or federal, to give an expert opinion?</p> <p>7 A. I have when I was in the military.</p> <p>8 Q. But in a civil court?</p> <p>9 A. The opportunity has never arisen.</p> <p>10 Q. Have you ever been retained privately by an</p> <p>11 attorney to investigate an accident?</p> <p>12 A. No.</p> <p>13 Q. And you're not a mechanical engineer, correct?</p> <p>14 A. You've already asked me that. I said, no.</p> <p>15 Q. Do you know what a reasonable perception</p> <p>16 reaction time is for -- strike that. Do you</p> <p>17 know what the average perception reaction time</p> <p>18 is for a motorist?</p> <p>19 A. Depends upon the physical conditions of the</p> <p>20 motorist.</p> <p>21 Q. Assuming no impairment or medical problems,</p> <p>22 what's the average perception reaction time?</p> <p>23 A. Seems like I read several years back that's it</p>

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## FREEDOM COURT REPORTING

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<p>1 about .02 seconds.</p> <p>2 Q. .02 seconds?</p> <p>3 A. Yeah, .02 second.</p> <p>4 Q. To perceive a hazard and react?</p> <p>5 A. To -- to perceive a hazard. Now, the actual</p> <p>6 reaction of the driver is going to be</p> <p>7 dependent upon their mental and physical</p> <p>8 capabilities. But for an average person,</p> <p>9 statistically, to be able to perceive the</p> <p>10 danger, is about .02 second. Now, again, for</p> <p>11 the brain to tell its motor functions to do</p> <p>12 something and those motor functions to be</p> <p>13 followed up on is going to be dependent upon</p> <p>14 the mental and physical capabilities of the</p> <p>15 particular subject. It's kind of like when --</p> <p>16 Q. So .02 to perceive. But I'm asking you if you</p> <p>17 have any knowledge as to what the perception</p> <p>18 and reaction time is, the average perception</p> <p>19 and reaction time?</p> <p>20 A. Well, it's going to depend. If that stove is</p> <p>21 hot and you reach up and touch it, it ain't</p> <p>22 going to take you long to take your hand off</p> <p>23 the eye.</p>	<p>1 opinion eventually in trial of this matter.</p> <p>2 A. No.</p> <p>3 Q. You're simply a fact witness having --</p> <p>4 A. That's correct.</p> <p>5 Q. -- investigated the accident?</p> <p>6 A. That's correct.</p> <p>7 Q. On behalf of the City of Andalusia?</p> <p>8 A. That's correct.</p> <p>9 Q. That's all I have. Thank you.</p> <p>10 MR. HAYES: Nothing further.</p> <p>11 (Deposition concluded at 12:15 p.m.)</p> <p>12 *****</p> <p>13 FURTHER DEPONENT SAITH NOT</p> <p>14 *****</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
Page 106	
<p>1 Q. Well, with regards to a motorist?</p> <p>2 A. I couldn't tell you.</p> <p>3 Q. What coefficient of friction would you have</p> <p>4 utilized if you were going to determine the</p> <p>5 speed of the Chevy based on the yaw marks you</p> <p>6 observed?</p> <p>7 A. I couldn't tell you that. I'd have to</p> <p>8 actually do a -- do several skid tests on the</p> <p>9 roadway in order to determine what the COF is.</p> <p>10 And then there again, I would have to go back</p> <p>11 and attempt to reconstruct the physical</p> <p>12 conditions of the roadway that evening with it</p> <p>13 being wet and the amount of water that was on</p> <p>14 the roadway, the amount of water that had been</p> <p>15 absorbed into the asphalt that evening, the</p> <p>16 amount of water that had been used for runoff.</p> <p>17 So there would have been numerous factors that</p> <p>18 would have been involved in that.</p> <p>19 Q. And you have not been retained in any manner</p> <p>20 in connection with this civil litigation, have</p> <p>21 you?</p> <p>22 A. Been retained as in?</p> <p>23 Q. By any parties to give any sort of expert</p>	

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## FREEDOM COURT REPORTING

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT 2 MIDDLE DISTRICT OF ALABAMA 3 NORTHERN DIVISION 4 5 6 SCOTT D. LAWSON and 7 STEVEN LAWSON, 8 9 Plaintiffs, 10 vs. CASE NO. 2:07cv356-MHT 11 SWIFT TRANSPORTATION 12 CO., INC., and 13 FREDRICK S. MARTIN, JR., 14 Defendants. 15 16 ***** 17 DEPOSITION OF SCOTT DANIEL LAWSON, taken 18 pursuant to stipulation and agreement before Sherry 19 McCaskey, Certified Court Reporter and Commissioner 20 for the State of Alabama at Large, in the Law 21 Offices of Jones &amp; Jones, 530 East Three Notch 22 Street, Andalusia, Alabama, on Tuesday, October 23, 23 2007, commencing at approximately 1:15 p.m. 24 *****</p>	<p>1 formality of a commission; that objections to 2 questions other than objections as to the form of 3 the questions need not be made at this time but may 4 be reserved for a ruling at such time as the 5 deposition may be offered in evidence or used for 6 any other purpose as provided for by the Alabama 7 Rules of Civil Procedure. 8 9 It is further stipulated and agreed by and 10 between counsel representing the parties that the 11 filing of the deposition is hereby waived and that 12 the deposition may be introduced at the trial of 13 this case or used in any manner by either party 14 hereto provided for by the Statute. 15 16 It is further stipulated and agreed by and 17 between the parties hereto and the witness that the 18 signature of the witness to this Deposition is 19 hereby waived. 20 ***** 21 22 23</p>
Page 2	Page 4
<p>1 APPEARANCES 2 FOR THE PLAINTIFFS: 3 JOSHUA P. HAYES, ESQUIRE 4 Prince Glover Law 5 Attorneys at Law 6 1 Cypress Point 7 701 Rice Mine Road N. 8 Tuscaloosa, Alabama 35406 9 10 JOHN F. JONES, JR., ESQUIRE 11 Jones &amp; Jones, P.C. 12 Attorneys at Law 13 530 East Three Notch Street 14 Andalusia, Alabama 36420 15 16 FOR THE DEFENDANTS: 17 LEA RICHMOND, IV, ESQUIRE 18 Carr, Allison, Pugh, 19 Howard, Oliver &amp; Sisson, P.C. 20 Attorneys at Law 21 100 Vestavia Parkway 22 Birmingham, Alabama 35216 23 24 ***** 25 26 STIPULATIONS 27 28 It is hereby stipulated and agreed by and 29 between counsel representing the parties that the 30 deposition of Scott Daniel Lawson is taken pursuant 31 to stipulation and agreement; that all formalities 32 with respect to procedural requirements are waived; 33 that said deposition may be taken before Sherry 34 McCaskey, Certified Court Reporter and Commissioner 35 for the State of Alabama at Large, without the</p>	<p>1 SCOTT DANIEL LAWSON 2 3 The witness, having first been duly sworn 4 to speak the truth, the whole truth, and nothing but 5 the truth, testified as follows: 6 7 EXAMINATION 8 BY MR. RICHMOND: 9 Q. Would you please state your full name for the 10 Record, sir? 11 A. Scott Daniel Lawson. 12 Q. Mr. Lawson, my name is Lea Richmond. I 13 represent Swift Transportation Company, 14 Incorporated, and Mr. Fredrick Martin in the 15 lawsuit that you filed against that individual 16 and that company. I'm going to ask you a 17 series of questions today. I'm going to try 18 not to keep you that long. A lot of my 19 questions will be about your background. My 20 intention is not to pry around in your 21 personal life. But you filed a personal 22 injury lawsuit against my client, so I have to 23 ask you particular questions that may seem 24 personal to you such as your wage earnings 25 history, your medical background, things of</p>

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<p>1 that nature.</p> <p>2 I'm sure your attorney has met with you</p> <p>3 and told you how this would proceed. Do me a</p> <p>4 favor of always giving me a verbal response to</p> <p>5 my questions. I'm sure they told you that.</p> <p>6 It will make it easier for her to keep a clean</p> <p>7 transcript if you say yes or no rather than</p> <p>8 uh-huhs and huh-uhs and things of that nature.</p> <p>9 A. Yes, sir.</p> <p>10 Q. And always make sure you understand my</p> <p>11 question.</p> <p>12 A. Yes, sir.</p> <p>13 Q. If for any reason I'm not making any sense or</p> <p>14 you think that we're on different pages, stop</p> <p>15 me, back me up. I'll ask it as many times as</p> <p>16 need be.</p> <p>17 Fair enough?</p> <p>18 A. Yes, sir.</p> <p>19 Q. But if you give me an answer, I'm going to</p> <p>20 assume two things: one, that you understood</p> <p>21 my question and; two, that you gave a response</p> <p>22 under oath.</p> <p>23 A. Yes, sir.</p>	<p>1 A. No, sir.</p> <p>2 Q. Has your license ever been revoked in the past</p> <p>3 for any reason?</p> <p>4 A. No, sir.</p> <p>5 Q. Sitting here today, you believe your license</p> <p>6 is current, there's no suspensions or</p> <p>7 restrictions on it?</p> <p>8 A. No suspensions.</p> <p>9 Q. I'll tell you just as a courtesy, right now, a</p> <p>10 check is showing that it's expired. So you</p> <p>11 might --</p> <p>12 A. It is?</p> <p>13 Q. It's expired, so you might want to go out and</p> <p>14 renew it.</p> <p>15 A. All right. I didn't even know that.</p> <p>16 Q. I'm not criticizing you. I'm just letting you</p> <p>17 know so you might want to go and get that</p> <p>18 taken care of.</p> <p>19 You've never had a commercial driver's</p> <p>20 license, have you?</p> <p>21 A. No, sir.</p> <p>22 Q. What's your Social Security number?</p> <p>23 A. 416-27-1395.</p>
Page 6	Page 8
<p>1 Q. And you understand that you're under oath</p> <p>2 right now; it's no different than if we were</p> <p>3 down at the courthouse and you were on the</p> <p>4 witness stand?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Did you take any medications this morning?</p> <p>7 A. No, sir.</p> <p>8 Q. You don't currently take any medications at</p> <p>9 all?</p> <p>10 A. No, sir.</p> <p>11 Q. What is your date of birth?</p> <p>12 A. 6/26/75.</p> <p>13 Q. So you are 32?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What's your driver's license number?</p> <p>16 A. 6047611.</p> <p>17 Q. And that's an Alabama license?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Have you ever held a license in any other</p> <p>20 state?</p> <p>21 A. No, sir.</p> <p>22 Q. Has your license ever been suspended in the</p> <p>23 past for any reason?</p>	<p>1 Q. Are you married, Mr. Lawson?</p> <p>2 A. No, sir.</p> <p>3 Q. Have you ever been married?</p> <p>4 A. No, sir.</p> <p>5 Q. Do you have any children?</p> <p>6 A. Yes, sir.</p> <p>7 Q. How many children do you have?</p> <p>8 A. Two.</p> <p>9 Q. What are their names?</p> <p>10 A. Santana Nicole Lawson.</p> <p>11 Q. And how old is -- does she go by Nicole or</p> <p>12 Santana?</p> <p>13 A. Santana.</p> <p>14 Q. How old is Santana?</p> <p>15 A. She's 12.</p> <p>16 Q. And your other child?</p> <p>17 A. Cailin.</p> <p>18 Q. With a K?</p> <p>19 A. C. Danielle Lawson.</p> <p>20 Q. And Cailin is how old?</p> <p>21 A. She should be 7.</p> <p>22 Q. And do Cailin and Santana live with you?</p> <p>23 A. No, sir.</p>

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<p style="text-align: right;">Page 9</p> <p>1 Q. With whom do they live?</p> <p>2 A. Their mothers.</p> <p>3 Q. Same mother?</p> <p>4 A. Different mothers.</p> <p>5 Q. Who is Santana's mother?</p> <p>6 A. Wendy Wheeler.</p> <p>7 Q. Wendy Wheeler.</p> <p>8 A. Uh-huh (positive response).</p> <p>9 Q. And where does Wendy live?</p> <p>10 A. Opp.</p> <p>11 Q. Oliver?</p> <p>12 A. Opp.</p> <p>13 Q. Opp, Alabama. Do you have an address; do you</p> <p>14 know an address?</p> <p>15 A. I sure don't know the address.</p> <p>16 Q. What about Cailin; what's Cailin's mother's</p> <p>17 name?</p> <p>18 A. Andrea Miller.</p> <p>19 Q. Andrea Miller. And where do Cailin and Andrea</p> <p>20 live?</p> <p>21 A. Slidell, Louisiana.</p> <p>22 Q. Do you have an address in Slidell?</p> <p>23 A. No, sir.</p>	<p style="text-align: right;">Page 11</p> <p>1 since.</p> <p>2 Q. Did you ever return to the classroom setting</p> <p>3 after you graduated from high school for any</p> <p>4 reason, vocational classes, get</p> <p>5 certification --</p> <p>6 A. I went to MacArthur for about a year for</p> <p>7 welding, but I was working at Shaw. So it</p> <p>8 sort of clashed, I mean, you know, working</p> <p>9 swing shift and trying to go to school.</p> <p>10 Q. When you say MacArthur, I'm not familiar with</p> <p>11 that. Is that a --</p> <p>12 A. It's a vocational school. I mean --</p> <p>13 Q. Vocational school?</p> <p>14 A. -- trade -- trade school.</p> <p>15 Q. And did you complete those welding classes?</p> <p>16 A. No, sir.</p> <p>17 Q. How shy are you of completing them if you were</p> <p>18 to go back, if you know.</p> <p>19 A. Not right offhand. I really don't know. It's</p> <p>20 been awhile.</p> <p>21 Q. Any other particular vocational training or</p> <p>22 on-the-job training, specialized skills?</p> <p>23 A. Electrical and plumbing.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Any other children?</p> <p>2 A. No, sir. That's it.</p> <p>3 Q. Do you provide financial assistance to or on</p> <p>4 behalf of Santana or Cailin?</p> <p>5 A. Both of them.</p> <p>6 Q. And is that by court order or voluntary child</p> <p>7 support arrangement?</p> <p>8 A. It's a court order I believe. We went to</p> <p>9 court and had it established.</p> <p>10 Q. Have you missed any child support payments</p> <p>11 since this accident?</p> <p>12 A. No, sir. Can't afford to miss any. You go to</p> <p>13 jail for that.</p> <p>14 Q. I just want to make sure that you're not</p> <p>15 claiming in this lawsuit that as a result of</p> <p>16 the accident, you've fallen behind on your</p> <p>17 child support payments. That hasn't</p> <p>18 happened?</p> <p>19 A. No, sir.</p> <p>20 Q. We'll move on then.</p> <p>21 Tell me about your educational background.</p> <p>22 A. Straughn High School. Left in the 11th</p> <p>23 grade. Got my GED and have been working ever</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. Do you hold any licenses?</p> <p>2 A. No, sir.</p> <p>3 Q. When you say "electrical and plumbing," was</p> <p>4 this all on-the-job training?</p> <p>5 A. Yes.</p> <p>6 Q. And you've done electrical work and plumbing</p> <p>7 work in the past with subcontractors?</p> <p>8 A. I worked for my uncle, yes. And he is a</p> <p>9 plumbing and electrical contractor. That's</p> <p>10 what we do.</p> <p>11 Q. Have you ever been in the military?</p> <p>12 A. No, sir.</p> <p>13 Q. Tell me -- if you would, walk me through your</p> <p>14 employment history.</p> <p>15 A. How far back you want to go?</p> <p>16 Q. Well, let's start right after you graduated</p> <p>17 from high school.</p> <p>18 A. Let's see. Worked at Tracy -- I mean, cold</p> <p>19 storage. I can't remember the name of it</p> <p>20 right offhand.</p> <p>21 Q. Cold storage?</p> <p>22 A. Uh-huh (positive response).</p> <p>23 Q. Where was that located?</p>

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<p>1 A. Sun States Cold Storage. That's the name of 2 it. Over here on, I guess you would say, on 3 Sanford Road. 4 Q. And what was the name of it again? 5 A. Sun States. 6 Q. Sun States Cold Storage? 7 A. Yes. 8 Q. What did you do for them? 9 A. Stocker. Yeah, stocker. 10 Q. About what years would you have worked there? 11 A. I wasn't there but about a year. 12 Q. Was that right after you graduated from high 13 school? 14 A. Yes, sir. 15 Q. And what year did you graduate from high 16 school? 17 A. Well, I didn't graduate. I got my GED 18 in -- let's see -- '91 or 2. I believe is -- 19 Q. So I think you would have worked for Sun 20 States Cold Storage around '91 or '92? 21 A. Two as best I recall. 22 Q. Did you work 40 hours a week there? 23 A. Yes, sir.</p>	<p>1 Q. What did you do at Shaw Industries? 2 A. I was a textile -- draw texture and operator 3 and instructor. 4 Q. Where did you work next? 5 A. Jordan Electric. 6 Q. Is that where you were working at the time of 7 the accident? 8 A. Yes, sir. 9 Q. Is that where you still work as of today's 10 date? 11 A. Yes, sir. 12 Q. What year did you start to work at Jordan? 13 A. I want to say '05, late '05, early -- or early 14 '05, late '04 is what I want to say. I'm not 15 for sure. 16 Q. We've discussed all of your employers? 17 A. Yes, sir. 18 Q. Looking back through all these employers, did 19 any of them ever terminate you? 20 A. No, sir. 21 Q. You voluntarily left all these places of 22 employment? 23 A. Yes, sir.</p>
Page 14	Page 16
<p>1 Q. Do you remember what they paid you? 2 A. Not right offhand. It's been awhile back. 3 Q. Let's me ask you this in the interest of 4 time: Are you claiming that this accident has 5 hindered your ability to earn a living in the 6 future? 7 A. I mean -- 8 Q. Is there a lost wage claim? 9 MR. JONES: There's a lost wage but not a 10 lost wage for the future. 11 MR. RICHMOND: Not the future? Okay. 12 That will shortcut a lot of questions. 13 So we can stipulate to that? 14 MR. JONES: Correct. 15 Q. After Sun States Cold Storage where did you 16 work? 17 A. Carport Auto Parts. 18 Q. What did you do for them? 19 A. I was a counter man, third key. 20 Q. Where did you work next? 21 A. Went from there to Shaw Industries. 22 Q. And that is here in Andalusia, is it not? 23 A. Yes. Yes, sir.</p>	<p>1 Q. Did you ever receive any formal reprimands, 2 writeups from any of these employers? 3 A. No, sir. 4 Q. Did you ever miss a significant amount of time 5 from work while working for these employers? 6 A. No, sir. 7 Q. Was there ever a gap of more than a month or 8 two in between any of these employers? 9 A. I think it -- I'm not sure but maybe between 10 Sun States and the Carport. 11 Q. And at most, that would have been how long? 12 I'm just trying to get a judgment if you've 13 ever been out of work for a significant period 14 of time. 15 A. No more than maybe a month. 16 Q. You've never filed for unemployment 17 compensation, have you? 18 A. No, sir. Never received unemployment. I 19 mean -- well, let me be clear on that now. At 20 Shaw Industries during shutdown for Christmas, 21 we -- everybody got a week of unemployment. 22 So -- 23 Q. Right. I'm familiar with that. You've never</p>

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Page 17	Page 19
<p>1 gone to the unemployment office after having 2 been out of work for a period of time -- 3 A. No. 4 Q. -- and sought benefits from the State? 5 A. No, sir. 6 Q. Okay. And you've never filed for any sort 7 Social Security benefits, have you? 8 A. No, sir. 9 Q. Have you ever filed for any type of disability 10 benefits at all? 11 A. No, sir. 12 Q. Ever filed for bankruptcy? 13 A. No, sir. 14 Q. Ever been arrested? 15 A. No, sir. 16 Q. Moving right along. 17 Tell me what you did at Jordan Electric 18 when you were hired in '05? 19 A. Started out as a helper. I mean, like pulling 20 wire, nailing up boxes. I mean -- 21 Q. Were you on the construction site every day? 22 A. Yes, sir. 23 Q. I'm just trying to get if you were in the</p>	<p>1 averaging about 40 hours a week? 2 A. Yes, sir. 3 Q. And were you a W-2 employee or were you 1040 4 or -- is it 1040? Do you understand what I 5 mean? Were you an employee? Where you a 6 contractor to Jordan Electric, or were you a 7 foreman employee? 8 A. I'm their foreman employee. 9 Q. Did you have any insurance benefits? 10 A. No, sir. 11 Q. At any of these jobs you've ever worked in the 12 past, have you ever had any insurance 13 benefits? 14 A. Yes, sir. 15 Q. Which ones? 16 A. Carport, Shaw. 17 Q. All right. Did you have any, what they call, 18 COBRA, any extended coverage after you left 19 Shaw? 20 A. No, sir. 21 Q. Have you ever qualified for Medicare and 22 Medicaid coverage? 23 A. No, sir.</p>
Page 18	Page 20
<p>1 office, if you on a site? 2 A. No. Site. 3 Q. You were on site, working, on your feet all 4 day? 5 A. Uh-huh (positive response). 6 Q. How many hours a week did you work? 7 A. Forty. 8 Q. Did you ever work more than 40? 9 A. Maybe occasionally. I mean, we might get four 10 or five hours overtime. Nothing big. 11 Q. When you started out, what were they paying 12 you per hour, or maybe you were on salary? 13 How were you compensated? 14 A. By the hour. We get paid by the hour. I 15 started out at 7.50. And I want to say it was 16 for or five months later, they moved me up to 17 foreman and raised my rate to ten. 18 Q. So you got a promotion? 19 A. Yes, sir. 20 Q. At the time of this accident, what were you 21 earning per hour? 22 A. Ten. 23 Q. At the time of this accident, were you</p>	<p>1 Q. At the time of this accident, you didn't have 2 any source of insurance? 3 A. No, sir. 4 Q. And is that still true as of today's date? 5 A. Yes, sir. 6 Q. Now, can you be at Jordan Electric a certain 7 amount of time and then qualify for health 8 insurance? 9 A. No, sir. 10 Q. So to your knowledge, does Jordan Electric 11 provide health insurance for any of its 12 employees? 13 A. No, sir. 14 Q. Who is your supervisor at Jordan Electric? 15 A. Frankie Barbarow is my immediate supervisor. 16 Q. How do you spell that last name? 17 A. B-A-R-B-A-R-O-W. 18 Q. Okay. 19 A. And Ronald Jordan is the owner. 20 Q. Now, are there some folks that you're 21 responsible for supervising as a foreman? 22 A. Yes, sir. 23 Q. Who would those people be?</p>

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<p>1 A. None of them are working there right now. I</p> <p>2 mean, it just depends on -- at the time who my</p> <p>3 helper is. One of them was --</p> <p>4 Q. At the time of this accident would be a good</p> <p>5 reference point.</p> <p>6 A. Let's see. I can't really remember who was</p> <p>7 working with me at the time of the accident.</p> <p>8 There's been so many to come and go, so I</p> <p>9 really can't remember.</p> <p>10 Q. Do you know what day of the week this accident</p> <p>11 happened on?</p> <p>12 A. I can't -- I can't remember what day it was.</p> <p>13 Q. Do you get any sick time at Jordan Electric?</p> <p>14 A. Yes, sir. If I need a day off, I mean,</p> <p>15 he'll --</p> <p>16 Q. And would they pay you?</p> <p>17 A. He has occasionally. I mean --</p> <p>18 Q. By "he," you mean Ronald Jordan?</p> <p>19 A. Yes, sir. I mean, but that doesn't happen a</p> <p>20 lot, I mean, you know.</p> <p>21 Q. But there have been occasions in the past</p> <p>22 where you missed time from work for health</p> <p>23 reasons but he still paid you a full day's</p>	<p>1 Q. And did that workload or work schedule</p> <p>2 continue in the months following this</p> <p>3 accident?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And is that still true as of today's date,</p> <p>6 that work schedule?</p> <p>7 A. Yes, sir.</p> <p>8 Q. So it's not one of those situations where you</p> <p>9 are wanting for work?</p> <p>10 A. No. We've got work.</p> <p>11 Q. And at the time of this accident, you had at</p> <p>12 least 40 weeks coming to you?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And you appropriately filed all your state and</p> <p>15 federal income taxes, right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Have you sat down and tried to figure out an</p> <p>18 exact figure on how much you're claiming</p> <p>19 you're out of pocket for lost wages from the</p> <p>20 time you missed from work?</p> <p>21 A. I --</p> <p>22 Q. And you can give me your best judgment?</p> <p>23 A. Maybe \$500. I mean, I really don't know. I</p>
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<p>1 wages?</p> <p>2 A. I think there was -- I really can't remember,</p> <p>3 but I think there was once he done that for</p> <p>4 me.</p> <p>5 Q. How many days did you miss from work following</p> <p>6 this accident?</p> <p>7 A. I really can't remember. I want to say maybe</p> <p>8 four or five, if -- if that. But I</p> <p>9 really -- really can't remember the exact</p> <p>10 number.</p> <p>11 Q. Your best judgment is four or five, somewhere</p> <p>12 around in there?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And you would have typically worked eight</p> <p>15 hours a day?</p> <p>16 A. Nine hours a day.</p> <p>17 Q. Nine hours a day.</p> <p>18 A. Nine hours a day. They way our work schedule</p> <p>19 is Monday through Thursday, nine hours a day;</p> <p>20 Friday, four hours.</p> <p>21 Q. That was my next question: Was that your work</p> <p>22 schedule at the time of the accident?</p> <p>23 A. Yes, sir.</p>	<p>1 mean, it's just a ballpark figure. I mean --</p> <p>2 MR. HAYES: Just so we're clear, Lea, that</p> <p>3 was lost wages and out of pockets</p> <p>4 or --</p> <p>5 MR. RICHMOND: Just wages.</p> <p>6 MR. HAYES: I'm sorry. I didn't hear your</p> <p>7 question.</p> <p>8 MR. RICHMOND: Yeah. I'm talking about</p> <p>9 just wages. Yeah. And that's a good</p> <p>10 point.</p> <p>11 Q. Are you out of pocket any other moneys in</p> <p>12 addition to your lost wages?</p> <p>13 A. Some prescriptions like from the emergency</p> <p>14 room that I had to buy, rental car. We had</p> <p>15 to -- I think it was an extra week we had to</p> <p>16 rent it for.</p> <p>17 Q. You didn't own the car you were driving at the</p> <p>18 time of this accident, right?</p> <p>19 A. Uh-huh (positive response). But that was the</p> <p>20 only way we had to get around.</p> <p>21 Q. And when you say "we," did you mean you and</p> <p>22 your brother or you and your --</p> <p>23 A. My girlfriend.</p>

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<p>1 Q. Your girlfriend?</p> <p>2 A. Yes.</p> <p>3 Q. Were y'all living together at the time of the</p> <p>4 accident?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And that vehicle, that Chevy Lumina was your</p> <p>7 only means of transportation?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Do you know if she has received any sort of</p> <p>10 property damage settlement?</p> <p>11 A. Yes, sir. She received property damage for</p> <p>12 the car.</p> <p>13 Q. Do you know if they included the rental</p> <p>14 expense in her property damage settlement?</p> <p>15 A. I don't believe they did. I mean, I'm not</p> <p>16 sure. I don't think they did.</p> <p>17 Q. Do you have any judgment as to what figure</p> <p>18 that is?</p> <p>19 A. Well, when I went up in there and rented it</p> <p>20 again myself, I want to say it was \$89, is</p> <p>21 what I paid on that day.</p> <p>22 Q. Do you have any judgment as to how much money</p> <p>23 you've expended for prescriptions?</p>	<p>1 A. Yes, sir.</p> <p>2 Q. Do you have a judgment as to what that figure</p> <p>3 is?</p> <p>4 A. It's possibly -- it should be close to 200,</p> <p>5 \$250. It's not a small truck. So --</p> <p>6 Q. Any other moneys you're out of pocket?</p> <p>7 A. Not that I can think this -- at this time.</p> <p>8 Q. Are you getting any notices in the mail from</p> <p>9 your doctors, physicians, health care</p> <p>10 providers about overdue bills?</p> <p>11 A. No, sir.</p> <p>12 Q. You haven't been contacted by any type of</p> <p>13 collection agency following this accident,</p> <p>14 have you?</p> <p>15 A. No, sir.</p> <p>16 Q. You haven't fallen behind on any of your</p> <p>17 household bills, have you?</p> <p>18 A. No, sir.</p> <p>19 Q. Tell me about your medical background in</p> <p>20 general. Have you suffered from any ongoing</p> <p>21 medical problems in the past? Some folks have</p> <p>22 hypertension, diabetes, anything of that</p> <p>23 nature?</p>
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<p>1 A. Close to \$63 I believe is what that was.</p> <p>2 Q. And where do you get your prescriptions</p> <p>3 filled?</p> <p>4 A. Pharmacare.</p> <p>5 Q. Pharmacare?</p> <p>6 A. Yes.</p> <p>7 Q. And were you on any prescription medications</p> <p>8 at the time of this accident?</p> <p>9 A. No, sir.</p> <p>10 Q. Were you on any medications at all at the time</p> <p>11 of this accident?</p> <p>12 A. No, sir.</p> <p>13 Q. And Pharmacare is here in Andalusia?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Do you know where it is? I'm not real</p> <p>16 familiar with the area.</p> <p>17 A. Highway 29. That's all I know.</p> <p>18 Q. Are you out any other moneys?</p> <p>19 A. I had to reimburse my uncle some for gas, for</p> <p>20 mileage for the work truck. I mean, for round</p> <p>21 trip ten miles, take me home, pick me up from</p> <p>22 work, you know, take me back home.</p> <p>23 Q. He was giving you a lift?</p>	<p>1 A. No diabetes, no hypertension.</p> <p>2 Q. Do you have any medical conditions for which</p> <p>3 you seek regular medical treatment?</p> <p>4 A. Not over the past few years. I mean --</p> <p>5 Q. Do you have any restrictions on your license</p> <p>6 or did you at the time of this accident?</p> <p>7 A. Glasses. Still haven't found them. They're</p> <p>8 in that car somewhere. So --</p> <p>9 Q. Were you wearing them at the time of the</p> <p>10 accident?</p> <p>11 A. Yes.</p> <p>12 Q. Do you need them to drive?</p> <p>13 A. They help some. I mean, I'm not blind but</p> <p>14 they help.</p> <p>15 Q. Who is your family physician?</p> <p>16 A. Dr. Boyington.</p> <p>17 Q. And is he a medical doctor?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And that's the person you would see if you</p> <p>20 fell and broke your leg or if you had the flu?</p> <p>21 A. Yes, sir.</p> <p>22 Q. He's your regular physician. Have you treated</p> <p>23 in any hospitals in the last ten years, gone</p>

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<p>1 to any emergency rooms?</p> <p>2 A. Sir?</p> <p>3 Q. Other than following this accident, have you</p> <p>4 treated in any emergency rooms?</p> <p>5 A. I think I -- I'm not sure. Maybe Andalusia</p> <p>6 Emergency Room.</p> <p>7 Q. Do you remember what that would have been for?</p> <p>8 A. It was in the last ten years. I mean, I may</p> <p>9 have been out there for something. But --</p> <p>10 Q. Can't remember anything specific?</p> <p>11 A. Yeah. I can't nothing specific.</p> <p>12 Q. Being on the safe side?</p> <p>13 A. Yeah.</p> <p>14 Q. Can you tell me any other doctors that you</p> <p>15 would have treated with in the last ten years</p> <p>16 other than Dr. Boyington and possibly the ER</p> <p>17 personnel at Andalusia?</p> <p>18 A. I don't -- I don't think that -- I'm not</p> <p>19 sure. I don't think there's any than just --</p> <p>20 I think he's -- he should be about the only</p> <p>21 one I would think.</p> <p>22 Q. Was he your pediatrician as well?</p> <p>23 A. No, sir.</p>	<p>1 lower back. Were there any others?</p> <p>2 A. It's in my neck, hurt for, you know, a -- it</p> <p>3 was --</p> <p>4 Q. Your neck was sore after the accident?</p> <p>5 A. Yes, sir.</p> <p>6 Q. So you would include your neck?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Has the pain in your neck resolved?</p> <p>9 A. Yes, sir.</p> <p>10 Q. It's gone away?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Is the pain in your back still there?</p> <p>13 A. Yes, sir. I mean, by overdoing it. I mean,</p> <p>14 it's there. It --</p> <p>15 Q. Are you taking any prescription pain</p> <p>16 medication for your back?</p> <p>17 A. I have some at the house if -- if I need it.</p> <p>18 I mean, I don't like to take it.</p> <p>19 Q. Who has prescribed that for you?</p> <p>20 A. Dr. Boyington.</p> <p>21 Q. And what type of medication is that.</p> <p>22 A. Lorcet 10, Ultram.</p> <p>23 Q. Ultram?</p>
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<p>1 Q. He's just your internal medicine doctor now?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Have you ever been hospitalized for any</p> <p>4 reason?</p> <p>5 A. No, sir.</p> <p>6 Q. Have you ever had surgery?</p> <p>7 A. No, sir.</p> <p>8 Q. Have you ever had any outpatient procedure</p> <p>9 done where you are in the facility for most of</p> <p>10 the day but then they let you go home?</p> <p>11 A. No, sir.</p> <p>12 Q. You're claiming you suffered some bodily</p> <p>13 injuries in this accident?</p> <p>14 A. Yes, sir.</p> <p>15 Q. What body parts are you claiming were injured?</p> <p>16 A. At the emergency room, they said I had some</p> <p>17 whiplash, but it was my lower back mainly.</p> <p>18 That's what I went to see Dr. Boyington about,</p> <p>19 was my lower back.</p> <p>20 Q. And my question to you is, I need to know each</p> <p>21 and every part of your body that you're</p> <p>22 claiming was injured as a result of this</p> <p>23 accident. And right now, I'm hearing your</p>	<p>1 A. Yes, sir. And Nexapro (phonetic). I believe</p> <p>2 that's how you pronounce it. I'm not sure.</p> <p>3 Q. Do you take any of these on a regular basis?</p> <p>4 A. No, sir. I try not to.</p> <p>5 Q. When was the last time that you took any of</p> <p>6 these medications for your lower back?</p> <p>7 A. Took some, I want to say, Sunday night.</p> <p>8 Q. And was there a particular reason why you took</p> <p>9 some Sunday night? Had you been doing an</p> <p>10 activity that precipitated the need?</p> <p>11 A. I had been outside with playing with my step</p> <p>12 boys so, yeah. I mean, doing something I</p> <p>13 shouldn't have been doing probably. But --</p> <p>14 Q. Prior to that, when was the last time you took</p> <p>15 medication? Well, strike that.</p> <p>16 On average, in 2007, about how often do</p> <p>17 you think you take it? One a week, once a</p> <p>18 month?</p> <p>19 A. You're talking about from the wreck forward?</p> <p>20 Q. Well, from -- yes, from the wreck forward,</p> <p>21 yes, sir.</p> <p>22 A. Yes, sir.</p> <p>23 Q. For some reason I thought it was '06.</p>

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<p>1 A. After the wreck when I got in to see 2 Dr. Boyington and he put me on it, I took it 3 on a regular basis. I mean, it made me sick. 4 So we had to -- he lowered the dosage, but I 5 had to take it quite frequently for almost a 6 month, I mean, just to sleep. That's -- you 7 know, and he recommended after so long backing 8 down off of it, you know, because I don't like 9 to take it. I mean, so I may take it once a 10 week now if I need it. 11 Q. About an average about once a week? 12 A. If I need it. 13 Q. When was the last time that you had those 14 prescriptions filled; do you remember? 15 A. It's been awhile. He -- he filled them at the 16 office for me. This is just what I've got 17 left over. I mean -- 18 Q. Has it been more than two or three months 19 since you've gone to the pharmacy to get some 20 more of these pills? 21 A. I did not get these pills from the pharmacy. 22 Q. So you've never -- 23 A. They were prescribed at the doctor's office.</p>	<p>1 Q. And did the ambulance personnel come out there 2 to the scene and offer you medical treatment? 3 A. Yes, sir. 4 Q. What all did they say to you out there at the 5 scene? 6 A. I -- it was -- I don't remember what all was 7 said. I mean, it was kind of confusing that 8 night. 9 Q. I can appreciate that. Did they offer you 10 treatment? 11 A. They offered me a ride to the emergency room, 12 but that's just one more bill I can't afford. 13 So -- 14 Q. Did they encourage you to get checked out? 15 A. Yes, sir. 16 Q. Did they get you to sign a waiver form saying 17 that, hey, we've advised you to go to the 18 emergency room but you're declining to go? 19 A. Yes, sir, I believe so. I mean, I went to the 20 emergency room. So -- 21 Q. Did they tell you on the scene -- they being 22 the hospital personnel -- that you would not 23 be denied treatment because you didn't have</p>
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<p>1 Q. And did he give you -- oftentimes my physician 2 sometimes does this. Did he give you samples? 3 A. These are not samples. These are -- I'm not 4 the sure how he handled it. He filled them 5 there at office, I want to say, like -- 6 Q. So you didn't have to pay for them? 7 A. Yes. But I'll have to -- yes. 8 Q. When was the last time that you saw 9 Dr. Boyington for your lower back? 10 A. I'm not sure. 11 Q. Would it have been in the last couple of 12 months? 13 A. I'm not sure. Maybe June, May. I'm not sure 14 when was the last time I went in to see him. 15 Q. If I'm showing May, would that sound right to 16 you? 17 A. That's about right. 18 Q. Did you go the hospital on the night of this 19 accident? 20 A. Yes, sir. 21 Q. But I understand that you did not got to the 22 hospital by way of the ambulance? 23 A. No, sir, I didn't go by way of ambulance.</p>	<p>1 insurance? Did they have any of those type of 2 conversations with you? You don't remember 3 them saying that? 4 A. They might have. I mean, like I said, it was 5 really confusing. 6 Q. Do you remember, Mr. Lawson, why you changed 7 your mind and decided to go? 8 A. I was planning on going. I was distraught. I 9 mean, and I had my -- my cousin showed up. I 10 called him. I got him to take me. I mean, we 11 was out there shortly after the accident. So 12 we -- 13 Q. Did your cousin or any other friends or 14 relatives arrive at the scene and change your 15 mind or tell you that they thought you should 16 go? Is it one of those situations, or did you 17 start hurting or -- 18 A. No, I went because I needed to go. I mean -- 19 Q. At the time of the impact, did you feel pain 20 anywhere in your body? 21 A. I was in such shock from it. I mean, like, 22 they told me at the emergency room that 23 adrenalin was running, probably wouldn't feel</p>

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<p>1 it until the next day. I mean, I felt it the</p> <p>2 next morning.</p> <p>3 Q. Do you remember if any parts of your body</p> <p>4 struck the interior of your car at impact?</p> <p>5 A. To tell you the truth, there's no telling how</p> <p>6 many parts of the inside of that car I</p> <p>7 struck. I mean, I really don't remember.</p> <p>8 Q. Did you have your seat belt on?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did your air bag deploy?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Did you come in contact with the air bag?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Were you able to get out the car on your own</p> <p>15 power?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Were you able to walk around and ambulate</p> <p>18 around the scene -- walk around the accident</p> <p>19 scene on your own power?</p> <p>20 A. Yeah, I -- yes, sir.</p> <p>21 Q. Were you able to --</p> <p>22 A. I didn't walk around a whole lot.</p> <p>23 Q. Were you bleeding when you gathered yourself</p>	<p>1 accident. Now, where I will criticize you is,</p> <p>2 if this case goes to trial and you're on the</p> <p>3 witness stand at trial and you describe some</p> <p>4 other injuries that you haven't told me about</p> <p>5 today. So right now I'm hearing that your</p> <p>6 lower back was tender, and maybe a day or two</p> <p>7 after the accident, some other parts of your</p> <p>8 body hurt. Tell me what those were.</p> <p>9 A. Just that -- my knee from slamming into the</p> <p>10 dash.</p> <p>11 Q. Okay.</p> <p>12 A. It was bruised.</p> <p>13 Q. Okay.</p> <p>14 A. My foot was stove up from --</p> <p>15 Q. Was it bruised?</p> <p>16 A. No, it was just stove up a little.</p> <p>17 Q. And your neck was tender?</p> <p>18 A. And my neck was tender.</p> <p>19 Q. Right.</p> <p>20 A. It was mostly my back.</p> <p>21 Q. Mostly your lower back?</p> <p>22 A. Yes.</p> <p>23 Q. Did you take any pictures of any of your body</p>
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<p>1 right after the accident; could you tell if</p> <p>2 you had any cuts or bleeding anywhere?</p> <p>3 A. I think some glass cut my knuckles and maybe</p> <p>4 my arm a little bit.</p> <p>5 Q. Did you have any burns on your body from the</p> <p>6 air bag, anything like that?</p> <p>7 A. I'm not sure. I don't think so.</p> <p>8 Q. Was your back hurting when you got out of the</p> <p>9 car, your lower back?</p> <p>10 A. It was tender. I mean -- I mean, I felt it</p> <p>11 when I stepped out of the car when I put</p> <p>12 pressure down. So -- but like I said, like</p> <p>13 they told me at the emergency room, adrenalin</p> <p>14 was running. I didn't feel a lot of it, the</p> <p>15 bumps and bruises and stuff until the next</p> <p>16 morning when I got up. I mean --</p> <p>17 Q. And understand, Mr. Lawson, I'm not -- as you</p> <p>18 can tell, I'm not here to criticize and say,</p> <p>19 no, you weren't hurt. But what I'm trying to</p> <p>20 do, this is a discovery deposition. I'm</p> <p>21 trying to figure out all the parts of your</p> <p>22 body that were hurt, and I'm here to learn</p> <p>23 what you're claiming was injured in the</p>	<p>1 parts, any injuries or bruises or scrapes?</p> <p>2 A. No, sir.</p> <p>3 Q. Has anyone ever taken any pictures of your</p> <p>4 body parts following the accident?</p> <p>5 A. Not that I remember.</p> <p>6 Q. How long was it until your neck pain resolved</p> <p>7 and got better?</p> <p>8 A. Maybe a couple of weeks.</p> <p>9 Q. Did you ever have to wear a collar or brace or</p> <p>10 anything like that?</p> <p>11 A. Yes, sir.</p> <p>12 Q. How long did you wear the collar?</p> <p>13 A. A week.</p> <p>14 Q. Who gave you that collar?</p> <p>15 A. The emergency room physician.</p> <p>16 Q. Did they give you any other medical device or</p> <p>17 brace or anything of that nature?</p> <p>18 A. No, sir. Just recommended that I see my</p> <p>19 family doctor.</p> <p>20 Q. When you got to the emergency room that night,</p> <p>21 did they do any tests on you?</p> <p>22 A. X-rays.</p> <p>23 Q. And do you remember what parts of your body</p>

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<p>1 they x-rayed?</p> <p>2 A. Neck, back. I believe that was all the</p> <p>3 x-rays, was my neck and my back.</p> <p>4 Q. Did they tell you if those x-rays were normal?</p> <p>5 A. Don't really -- I'm trying to remember. I</p> <p>6 mean --</p> <p>7 Q. If you can't remember, that's fine.</p> <p>8 A. I can't remember.</p> <p>9 Q. Did they give you any pain medication at the</p> <p>10 emergency room?</p> <p>11 A. I want to say that they did. But, really, I</p> <p>12 can't remember what they did that night. I</p> <p>13 mean, it was --</p> <p>14 Q. Do you remember how long it was after the</p> <p>15 accident that you got in to see Dr. Boyington?</p> <p>16 A. I really can't remember. I can't remember</p> <p>17 right offhand. It wasn't too long after the</p> <p>18 accident I don't think, but I don't remember.</p> <p>19 Q. What did Dr. Boyington do for you; did he</p> <p>20 check you out?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Were you happy with the care that</p> <p>23 Dr. Boyington provided you?</p>	<p>1 one to ten a couple of weeks after the</p> <p>2 accident for your lower back, how would you</p> <p>3 rate it?</p> <p>4 A. An eight. It kept me up at night. So --</p> <p>5 Q. How would you rate it, sitting here today?</p> <p>6 A. Sitting here today? Two, three.</p> <p>7 Q. And that's without the medication?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Have any of your physicians -- well, strike</p> <p>10 that. Let me ask you this first: Have you</p> <p>11 treated with anybody other than Dr. Boyington</p> <p>12 for the injuries you're claiming in this</p> <p>13 accident.</p> <p>14 A. Just ER.</p> <p>15 Q. The Andalusia ER?</p> <p>16 A. Uh-huh (positive response).</p> <p>17 Q. Anybody else?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you ever gone to a chiropractor in the</p> <p>20 past ever?</p> <p>21 A. No, sir.</p> <p>22 Q. Has Dr. Boyington ever withheld you from work</p> <p>23 following this accident?</p>
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<p>1 A. Yes, sir.</p> <p>2 Q. You're satisfied with how he's treated you and</p> <p>3 responded to your complaints and needs?</p> <p>4 A. Yes, sir.</p> <p>5 Q. You don't have any criticisms of him or the</p> <p>6 care he's given you, do you?</p> <p>7 A. No, sir.</p> <p>8 Q. Did he run any tests on you like x-rays or</p> <p>9 MRIs or anything like that?</p> <p>10 A. I -- I'm not sure. I don't remember if he did</p> <p>11 or not. It's been awhile back. So, I mean,</p> <p>12 I'm not sure.</p> <p>13 Q. How long was it, Mr. Lawson, until your knee</p> <p>14 pain resolved? You told me it was a couple of</p> <p>15 weeks for your neck. How long did it take</p> <p>16 your knee pain to resolve?</p> <p>17 A. Maybe the same amount time, you know. I mean,</p> <p>18 I'm not sure.</p> <p>19 Q. So after about two weeks, the only part of</p> <p>20 your body that continued to hurt would be your</p> <p>21 lower back?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And if you had to rate your pain on a scale of</p>	<p>1 A. Following this accident, he limited me to</p> <p>2 lifting nothing over 5 pounds. Like I said, I</p> <p>3 work for my uncle. He allowed me to basically</p> <p>4 do nothing.</p> <p>5 Q. But he still paid you?</p> <p>6 A. Yes. I mean, I -- I mean, really didn't do</p> <p>7 anything. I mean --</p> <p>8 Q. Did Dr. Boyington, at some point, lift those</p> <p>9 work restrictions?</p> <p>10 A. Yes.</p> <p>11 Q. Did he tell you, you could go back to work</p> <p>12 full-duty?</p> <p>13 A. Yeah. Told me to watch what I lift and how I</p> <p>14 lift and, you know --</p> <p>15 Q. And sitting here today, you're back to work</p> <p>16 full-duty?</p> <p>17 A. Yes. I mean, I don't -- ask my uncle. I</p> <p>18 mean, I don't work as hard as what I used to</p> <p>19 because I will pay for it. I mean -- I mean,</p> <p>20 I'm no doctor by no means, but I know what it</p> <p>21 feels like after I've --</p> <p>22 Q. Put in a hard day?</p> <p>23 A. Yes.</p>

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<p style="text-align: right;">Page 45</p> <p>1 Q. But you're able to satisfactorily complete all</p> <p>2 of the requirements for your job? I would</p> <p>3 assume if I were to depose your uncle or get</p> <p>4 your employment records --</p> <p>5 A. Yes.</p> <p>6 Q. -- they're going to show that you are</p> <p>7 completing all of your job requirements.</p> <p>8 A. Yes.</p> <p>9 Q. Did Dr. Boyington ever give you what's known</p> <p>10 as an impairment rating? Does that ring a</p> <p>11 bell? Tell you that you lost any sort of</p> <p>12 percentage loss of use of your body or</p> <p>13 anything like that?</p> <p>14 A. I really -- I don't remember if he did or</p> <p>15 didn't. I mean --</p> <p>16 Q. He's never told you that you're a surgical</p> <p>17 candidate, has he?</p> <p>18 A. No, sir.</p> <p>19 Q. Has he ever told you if he thought you were</p> <p>20 going to have a permanent problem as a result</p> <p>21 of this accident or if it will get</p> <p>22 progressively better? Have you got any sort</p> <p>23 of prognosis, I guess is a better way to ask</p>	<p style="text-align: right;">Page 47</p> <p>1 A. Yeah. That -- that --</p> <p>2 Q. You know what I'm about now?</p> <p>3 A. Yeah. I remember that. Yes. I mean, nothing</p> <p>4 maybe more than work, something like that.</p> <p>5 Q. Did you tell Dr. Boyington after that event</p> <p>6 that you felt something pop in your back --</p> <p>7 A. Yes.</p> <p>8 Q. -- while you were changing a tire?</p> <p>9 A. Yes.</p> <p>10 Q. And was that pain a lot different than the</p> <p>11 pain you felt immediately following the</p> <p>12 accident?</p> <p>13 A. It was the same -- same spot, same area. I</p> <p>14 mean --</p> <p>15 Q. Was it more or less intense? How would you</p> <p>16 describe it?</p> <p>17 A. It was about the same as the -- as the couple</p> <p>18 of days or the day after the wreck. I mean,</p> <p>19 because it set me back. I mean, I'm no</p> <p>20 doctor. So --</p> <p>21 Q. Did you miss any work following that event?</p> <p>22 A. I think I went -- I'm not sure, but I think he</p> <p>23 put me back on light duty again. I'm not</p>
<p style="text-align: right;">Page 46</p> <p>1 that?</p> <p>2 A. I can't -- I can't remember. Like I said,</p> <p>3 it's been -- it's been awhile. I'm trying to</p> <p>4 remember. I mean, I --</p> <p>5 Q. Well, you haven't been back to see him since</p> <p>6 May, right?</p> <p>7 A. No, sir.</p> <p>8 Q. And would you agree with me, it seems like</p> <p>9 from what I'm hearing from you that as time</p> <p>10 passes, the pain has gotten better?</p> <p>11 A. Yes. I mean, some. I mean, now like as long</p> <p>12 as I don't do nothing stupid like get outside</p> <p>13 and jump on the trampoline with my boys.</p> <p>14 Q. Have you had any accidents or injuries, acute</p> <p>15 events with your back since this accident</p> <p>16 that's caused you some back pain?</p> <p>17 A. Such as? I mean, just -- what are you talking</p> <p>18 about, like another accident or --</p> <p>19 Q. Another incident that caused you some acute,</p> <p>20 whoa, I hurt my back, that's a lot worse now,</p> <p>21 and you'd go back in to see Dr. Boyington.</p> <p>22 A. Nothing in general, work. I mean --</p> <p>23 Q. What about changing a tire?</p>	<p style="text-align: right;">Page 48</p> <p>1 sure.</p> <p>2 Q. Have you ever given a deposition like this</p> <p>3 before?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever been involved in any lawsuits?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you ever given any sworn testimony in</p> <p>8 court?</p> <p>9 A. No, sir.</p> <p>10 Q. Have you ever seen -- when I ask you this</p> <p>11 question, I don't want to know the substance</p> <p>12 of any communications that you might have with</p> <p>13 this type of health care provider, but I do</p> <p>14 want to know if you've treated with a</p> <p>15 psychologist or psychiatrist.</p> <p>16 A. No, sir.</p> <p>17 Q. Do you smoke?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Did you smoke at the time of this accident?</p> <p>20 A. Yes.</p> <p>21 Q. Do you drink alcohol?</p> <p>22 A. On occasion.</p> <p>23 Q. Had you had any alcohol to drink in the 24</p>

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<p>1 hours preceding this accident?</p> <p>2 A. No, sir.</p> <p>3 Q. Had you ingested any drugs --</p> <p>4 A. No, sir.</p> <p>5 Q. -- with 24 hours preceding this accident?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you ever been involved in any other motor</p> <p>8 vehicle accidents, other than the one we're</p> <p>9 here about today?</p> <p>10 A. No, sir.</p> <p>11 Q. This is your only accident?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Let's take a quick break and then come back</p> <p>14 and talk about the accident.</p> <p>15 (Brief recess)</p> <p>16 Q. Are you ready, Mr. Lawson?</p> <p>17 A. Yes, sir.</p> <p>18 Q. We're not going to be too much longer.</p> <p>19 I wanted to discuss the accident with</p> <p>20 you. And what I'd look to do, Mr. Lawson, you</p> <p>21 can tell me as much detail -- everything you</p> <p>22 did on the day of the accident, starting with</p> <p>23 where you woke up that morning, what time it</p>	<p>1 A. Yes, sir.</p> <p>2 Q. And he gave you a ride home?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And home, the address then was what?</p> <p>5 A. 19140 Mims Lane.</p> <p>6 Q. 19 --</p> <p>7 A. 140 Mims, M-I-M-S, Mims Lane.</p> <p>8 Q. Is that Andalusia, Alabama?</p> <p>9 A. Yes, sir.</p> <p>10 Q. What is the zip down here?</p> <p>11 A. 36420.</p> <p>12 Q. And is that your current address?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And I didn't run through all this earlier, but</p> <p>15 let me ask you this in the interest of time.</p> <p>16 Have you ever lived anywhere outside the state</p> <p>17 of Alabama?</p> <p>18 A. No, sir.</p> <p>19 Q. Have you ever lived anywhere outside of</p> <p>20 Andalusia?</p> <p>21 A. No, sir.</p> <p>22 Q. So you were born and raised and lived your</p> <p>23 entire life in the Andalusia area?</p>
Page 50	Page 52
<p>1 was; and just sort of walk me through the</p> <p>2 events of your day, as best you remember, who</p> <p>3 you were with, and what you did. And I may</p> <p>4 periodically interrupt you just to get a few</p> <p>5 details as you lay this all out for me.</p> <p>6 But what time did you get up that morning?</p> <p>7 A. Probably around six because I think it was on</p> <p>8 a weekday. And, so, I went to work. Got off</p> <p>9 around -- I want to say five that day. Got</p> <p>10 home around five that day.</p> <p>11 Q. Let me ask you this: Do you remember the work</p> <p>12 site that you went to?</p> <p>13 A. No, sir.</p> <p>14 Q. Do you remember how you got to work; did you</p> <p>15 drive the Chevy to work?</p> <p>16 A. My girlfriend dropped me off at work.</p> <p>17 Q. And you worked a full day?</p> <p>18 A. Yes, sir.</p> <p>19 Q. How did you get from work to home; do you</p> <p>20 remember?</p> <p>21 A. I rode with Frankie, my cousin. I rode with</p> <p>22 him.</p> <p>23 Q. And he works with you at Jordan Electric?</p>	<p>1 A. Andalusia, yes, sir. Well, I was -- I was</p> <p>2 actually born in Opp. But, you know --</p> <p>3 Q. I'm just trying to get a feel if you ever</p> <p>4 lived in any other different parts of the</p> <p>5 state --</p> <p>6 A. No, sir.</p> <p>7 Q. -- in your 32 years?</p> <p>8 A. No, sir.</p> <p>9 Q. You don't remember exactly where the work site</p> <p>10 was?</p> <p>11 A. No, sir.</p> <p>12 Q. Do you punch in and out or keep any sort of</p> <p>13 time cards at work?</p> <p>14 A. We keep time cards.</p> <p>15 Q. Did you write down the time in and time out?</p> <p>16 A. Write down the time in, time out.</p> <p>17 Q. Keep track of the hours that you actually</p> <p>18 work?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you would have done that on that day?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Do you remember if you and Frankie made any</p> <p>23 stops anywhere from the time you left work</p>

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<p>1 until the time you got home?</p> <p>2 A. No stops. Straight from the shop to my house.</p> <p>3 Q. And how would you go from the shop? Describe</p> <p>4 the route that you go from the shop to your</p> <p>5 house?</p> <p>6 A. At the time, the shop was on Academy Drive.</p> <p>7 Leave Academy Drive, onto Sanford Road, take</p> <p>8 Highway 84. From 84 straight till you get to</p> <p>9 Leon Griggs Road, turn on Cotton House to my</p> <p>10 driveway.</p> <p>11 Q. About how long a drive is that, assuming</p> <p>12 normal weather, normal traffic conditions?</p> <p>13 A. Ten minutes, if that.</p> <p>14 Q. So by virtue of living in this area and I</p> <p>15 assume by traveling 84 to and from work,</p> <p>16 you're familiar with the stretch of highway</p> <p>17 where this accident happened?</p> <p>18 A. Yes, sir.</p> <p>19 Q. You drive over it all the time?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did you have a cell phone at the time of this</p> <p>22 accident?</p> <p>23 A. Yes, sir.</p>	<p>1 happened?</p> <p>2 A. No, sir. The phone was laying on the console,</p> <p>3 charging. I remember that.</p> <p>4 Q. Do you remember about what time Frankie</p> <p>5 dropped you off at home? Or if he dropped you</p> <p>6 off, he may have come inside with you.</p> <p>7 A. He dropped me off between 4:30 and 5:30. I'm</p> <p>8 not sure.</p> <p>9 Q. Was it dark out yet?</p> <p>10 A. No, sir, it wasn't dark out.</p> <p>11 Q. What was the weather like?</p> <p>12 A. I'm not sure. I believe everything was</p> <p>13 overcast about like it is now.</p> <p>14 Q. Was anybody home when you got home?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Who was there?</p> <p>17 A. My girlfriend was there and her kids.</p> <p>18 Q. And what is her name?</p> <p>19 A. Melissa Morrow.</p> <p>20 Q. Melissa Morrow. And you're still with</p> <p>21 Melissa?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And how many children does she have?</p>
Page 54	Page 56
<p>1 Q. What was that number?</p> <p>2 A. 804-8527.</p> <p>3 Q. Is that area code --</p> <p>4 A. 334.</p> <p>5 Q. 334. Now, who's the service with or who was</p> <p>6 it with?</p> <p>7 A. Alltel.</p> <p>8 Q. And that's issued to you by Jordan Electric,</p> <p>9 or is it in your name?</p> <p>10 A. It was mine, my name.</p> <p>11 Q. And do you still have the same number?</p> <p>12 A. No, sir.</p> <p>13 Q. Okay. What's your current one?</p> <p>14 A. Current phone number?</p> <p>15 Q. Yes, cell phone.</p> <p>16 A. I don't have a cell. I've got a LINC now.</p> <p>17 So --</p> <p>18 Q. You've got a LINC now. But this would have</p> <p>19 been your cell phone and service provider</p> <p>20 billed in your name at the time of the</p> <p>21 accident?</p> <p>22 A. Yes.</p> <p>23 Q. Were you on your phone when the accident</p>	<p>1 A. Three.</p> <p>2 Q. And what are their names?</p> <p>3 A. Dillon Morrow, Tyler Morrow, and Melanie</p> <p>4 Morrow.</p> <p>5 Q. Melanie?</p> <p>6 A. Uh-huh (positive response).</p> <p>7 Q. And they all still live with you?</p> <p>8 A. Yes.</p> <p>9 Q. Are they financially dependent upon you?</p> <p>10 A. Yes.</p> <p>11 Q. Does anybody else live at that address with</p> <p>12 you right now?</p> <p>13 A. That's it.</p> <p>14 Q. Did anybody else live at that address at the</p> <p>15 time of the accident?</p> <p>16 A. Just us.</p> <p>17 Q. Okay. So when you got home after work that</p> <p>18 day, was Melissa and your three step children?</p> <p>19 A. Yes.</p> <p>20 Q. Then what did you do when you got home?</p> <p>21 A. Decided to go to town to get something to eat</p> <p>22 because she didn't feel like cooking that</p> <p>23 night. Went by my mom's where my brother was</p>

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<p>1 at.</p> <p>2 Q. Where was your mother?</p> <p>3 A. On Loop Road.</p> <p>4 Q. What's the address?</p> <p>5 A. 21123.</p> <p>6 Q. 21123 Loop Road?</p> <p>7 A. Andalusia, Alabama, which is right across the</p> <p>8 highway from where I live.</p> <p>9 Q. Just a matter of minutes?</p> <p>10 A. Yeah.</p> <p>11 Q. Walking distance if need be?</p> <p>12 A. Well, it's about four miles. So --</p> <p>13 Q. And did your brother live at this address at</p> <p>14 the time of this accident?</p> <p>15 A. Yes, sir, I believe so. I'm not sure.</p> <p>16 Q. Did you call your brother before you went over</p> <p>17 there?</p> <p>18 A. I can't remember.</p> <p>19 Q. Do you remember if you called anyone before</p> <p>20 you went over there?</p> <p>21 A. I can't remember.</p> <p>22 Q. You drove the Chevy over to pick up your</p> <p>23 brother I assume?</p>	<p>1 all the way up to the Church's Chicken?</p> <p>2 A. Yes.</p> <p>3 Q. And didn't make any other stops?</p> <p>4 A. No.</p> <p>5 Q. Did you pay cash for the chicken?</p> <p>6 A. Just -- I believe so.</p> <p>7 Q. All right. Do you know about what time you</p> <p>8 would have left Church's Chicken or Crispy</p> <p>9 Chick?</p> <p>10 A. I can't remember what time it was.</p> <p>11 Q. Did you make any stops from the time you left</p> <p>12 Church's Chicken up until the time of the</p> <p>13 accident?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you go into Church's Chicken or did you go</p> <p>16 through the drive-thru?</p> <p>17 A. I went inside.</p> <p>18 Q. He waited in the car?</p> <p>19 A. Yes, sir, I believe so.</p> <p>20 Q. Do you remember what you bought, chicken for</p> <p>21 your family?</p> <p>22 A. Yeah. As a matter of fact, I know what I</p> <p>23 bought because it was rotting inside the car</p>
Page 58	Page 60
<p>1 A. Yes, sir.</p> <p>2 Q. Where did y'all go from there?</p> <p>3 A. We went from there. I believe we stopped by</p> <p>4 Friendly's Gas Station.</p> <p>5 Q. Friendly's Gas Station?</p> <p>6 A. Yes.</p> <p>7 Q. Where is that located?</p> <p>8 A. On Highway 84.</p> <p>9 Q. And did you stop for gas?</p> <p>10 A. I believe I stopped and got me a pack of</p> <p>11 cigarettes and a drink, and I think he might</p> <p>12 have got the same. I'm not sure. From there</p> <p>13 we went to Crispy Chick and bought the food.</p> <p>14 Q. Where is Crispy Chick?</p> <p>15 A. What is this, Three Notch? East Three Notch</p> <p>16 is where it's located.</p> <p>17 Q. It's called Crispy Chick, or is it Church's</p> <p>18 Chicken?</p> <p>19 A. It might be Church's. Now might be Church's.</p> <p>20 Q. Would it be that one that's down the road</p> <p>21 here?</p> <p>22 A. Yes, that's it.</p> <p>23 Q. All right. And you would have taken 84 almost</p>	<p>1 when I got it back. Four CODs and a chicken</p> <p>2 strip basket.</p> <p>3 Q. Would you have made any of these purchases</p> <p>4 with a debit card or a credit card?</p> <p>5 A. I don't think so. I don't remember. I</p> <p>6 believe it was cash.</p> <p>7 Q. You think you paid cash both at the gas</p> <p>8 station and at the restaurant?</p> <p>9 A. Yes, sir.</p> <p>10 Q. You're fairly certain?</p> <p>11 A. Pretty sure it was cash. Pretty sure.</p> <p>12 Q. Did you have charge cards or debit cards at</p> <p>13 the time of this accident?</p> <p>14 A. I don't think so.</p> <p>15 Q. Did you make any phone calls from the time you</p> <p>16 left the Crispy Chick up until the time of the</p> <p>17 accident?</p> <p>18 A. I don't believe I did. I don't think so.</p> <p>19 Q. Tell me in your words what happened as you</p> <p>20 left Church's Chicken?</p> <p>21 A. We left Church's.</p> <p>22 Q. Was it raining?</p> <p>23 A. It was misting, overcast, nasty, getting dark.</p>

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Page 61	Page 63
<p>1 Q. About what time, in your best judgment?</p> <p>2 A. Seven.</p> <p>3 Q. Go ahead. I'm sorry.</p> <p>4 A. Had to be around close to seven. I left. I</p> <p>5 crossed the bridge, started up the hill on 84.</p> <p>6 Q. What lane were you in?</p> <p>7 A. I was in the right lane.</p> <p>8 Q. Did you stay in the right lane from the time</p> <p>9 you got on 84 up until the time of the</p> <p>10 accident?</p> <p>11 A. I -- I'm not certain, but I believe so.</p> <p>12 Q. What was the traffic like?</p> <p>13 A. It was light traffic I believe.</p> <p>14 Q. I'm sorry. Go ahead.</p> <p>15 A. Started up the hill. Seen the truck.</p> <p>16 Signaled to change lanes. Doing maybe 43, 44</p> <p>17 miles an hour. Started up the hill. And he</p> <p>18 turned across the road in front of us.</p> <p>19 Nowhere to go.</p> <p>20 Q. And you aren't on the cell phone?</p> <p>21 A. No, sir.</p> <p>22 Q. Did you have a window down?</p> <p>23 A. No, sir.</p>	<p>1 on or if it was the reflectors that the</p> <p>2 headlights -- I really don't remember.</p> <p>3 Q. Was there any traffic between you and the</p> <p>4 tractor trailer when you first saw it?</p> <p>5 A. No, sir.</p> <p>6 Q. In either lane?</p> <p>7 A. No, sir.</p> <p>8 Q. Could you see any other cars in your field of</p> <p>9 vision, other than the tractor trailer when</p> <p>10 you first saw it?</p> <p>11 A. No, sir.</p> <p>12 Q. And you don't have any judgment in terms of</p> <p>13 feet, do you, of how far away it was?</p> <p>14 A. No, sir.</p> <p>15 Q. What about yards? Are you a football fan?</p> <p>16 A. Oh, yeah.</p> <p>17 Q. Could you give me any sort of judgment?</p> <p>18 A. I --</p> <p>19 Q. Was it closer to a hundred yards away or 50</p> <p>20 yards away?</p> <p>21 A. It was closer to a hundred yards away. I</p> <p>22 mean, maybe a little farther. I think --</p> <p>23 don't really know. I mean, I can't remember.</p>
Page 62	Page 64
<p>1 Q. Do you remember if you were smoking?</p> <p>2 A. I don't remember if I was smoking, but I don't</p> <p>3 think we were because it was raining, misting.</p> <p>4 Q. Were you talking with your brother about</p> <p>5 anything particular that you remember?</p> <p>6 A. Not anything I remember, no.</p> <p>7 Q. You weren't in a hurry for any reason?</p> <p>8 A. No, sir.</p> <p>9 Q. You think you were going somewhere between 40</p> <p>10 and 45 miles an hour?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Do you know what the speed limit is out there?</p> <p>13 A. Forty-five at that time.</p> <p>14 Q. Now, if I understand you right, when you first</p> <p>15 saw that tractor that you eventually collided</p> <p>16 with, you were in the right-hand lane?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Do you have a judgment as to how far back you</p> <p>19 were from the tractor trailer when you first</p> <p>20 saw it?</p> <p>21 A. Not right offhand.</p> <p>22 Q. Could you see the lights on the trailer?</p> <p>23 A. I don't -- I don't remember if he had lights</p>	<p>1 Q. Closer to a hundred, maybe a little further.</p> <p>2 That's fair enough.</p> <p>3 A. Maybe.</p> <p>4 Q. What did you do as soon as you saw it?</p> <p>5 A. I signaled, got into --</p> <p>6 Q. I'm sorry. Here's one of the things, and I</p> <p>7 interrupt. I've got another question for</p> <p>8 you: How much time passed from when you first</p> <p>9 saw that tractor trailer when you signaled;</p> <p>10 was it immediate or just a few seconds?</p> <p>11 A. It was -- it was immediate because I noticed</p> <p>12 he wasn't moving. And like I said, it was</p> <p>13 dark, misting rain. Couldn't tell -- kind of</p> <p>14 noticed he was in the lane. Didn't look like</p> <p>15 he was moving.</p> <p>16 Q. He seemed to be stopped to you in the --</p> <p>17 A. Yes.</p> <p>18 Q. -- right-hand lane?</p> <p>19 A. Yes. I'm mean, I'm not for sure on that.</p> <p>20 But, I mean, if he was moving, he wasn't</p> <p>21 moving over one mile an hour. I mean, but,</p> <p>22 you know, he seemed stopped to me.</p> <p>23 Q. And then you engaged your signal?</p>

16 (Pages 61 to 64)



## FREEDOM COURT REPORTING

Page 65	Page 67
<p>1 A. Yes, sir.</p> <p>2 Q. Did you check in your mirrors before you</p> <p>3 dropped over in the left lane?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And did you jerk it over in the left lane, or</p> <p>6 was it just a slow, gradual -- just to ease</p> <p>7 over?</p> <p>8 A. Slow, gradual move over.</p> <p>9 Q. And once you got into the left lane, how far</p> <p>10 back from that tractor trailer do you think</p> <p>11 you were? Were you closer to 50 yards now or</p> <p>12 closer than that?</p> <p>13 A. Fifty yards, maybe a little closer.</p> <p>14 Q. And during this entire time, was that tractor</p> <p>15 trailer doing anything? Did you see any</p> <p>16 signals?</p> <p>17 A. No, sir, no signals. The best I can remember,</p> <p>18 he started moving across the highway when we</p> <p>19 were right beside him, I do believe.</p> <p>20 Q. And that's my next question, is that he</p> <p>21 started -- at some point, he made a left-hand</p> <p>22 maneuver?</p> <p>23 A. Yes, sir.</p>	<p>1 A. I hit probably three-quarters of the way, if</p> <p>2 that, is where we went under the trailer.</p> <p>3 When he stopped, we was, I want to say, almost</p> <p>4 at the rear tires, from the best I remember.</p> <p>5 I mean --</p> <p>6 Q. Do you remember where you were, Mr. Lawson, on</p> <p>7 the roadway when you came in contact with that</p> <p>8 trailer?</p> <p>9 A. Almost at the -- I'm not really sure. It</p> <p>10 happened so quick. I mean --</p> <p>11 Q. Did you hear your brother say anything?</p> <p>12 A. Yeah. Turn.</p> <p>13 Q. As that tractor trailer made its left-hand</p> <p>14 turn in front of you, did you do anything?</p> <p>15 A. I turned the wheel and hit the brakes.</p> <p>16 Q. To the wheel to the left?</p> <p>17 A. And hit the brakes.</p> <p>18 Q. And did you lock up?</p> <p>19 A. Yes, I did.</p> <p>20 Q. And you skidded?</p> <p>21 A. Slid.</p> <p>22 Q. And then you made the impact?</p> <p>23 A. Yes.</p>
Page 66	Page 68
<p>1 Q. Were you still behind the trailer when he</p> <p>2 started to make that maneuver?</p> <p>3 A. No, sir.</p> <p>4 Q. So you think you were -- the front end of your</p> <p>5 car was at least -- was it even with the</p> <p>6 tandems on the trailer. Were you halfway up</p> <p>7 the trailer? How far up do you think you</p> <p>8 were?</p> <p>9 A. Had to be at least half way -- quarter, half</p> <p>10 way. I mean --</p> <p>11 Q. You never saw the signal?</p> <p>12 A. Never saw a signal.</p> <p>13 Q. How would you describe that maneuver; did he</p> <p>14 gradually come over in front of you?</p> <p>15 A. No. He gunned it.</p> <p>16 Q. He gunned it?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And how long did -- did his tractor get all</p> <p>19 the way in front of you, like past you?</p> <p>20 A. The tractor was past me. I collided with the</p> <p>21 trailer.</p> <p>22 Q. With the trailer. At what point on that</p> <p>23 trailer did you hit?</p>	<p>1 Q. Did your vehicle move after impact?</p> <p>2 A. Just with him dragging us underneath the</p> <p>3 trailer.</p> <p>4 Q. Do you have any judgment as to how far?</p> <p>5 A. Probably 40 feet, 30 feet, 40 feet. He showed</p> <p>6 no signs of -- I'm not sure if he even knew we</p> <p>7 were under there at that point. I mean --</p> <p>8 Q. What part of your vehicle contacted the</p> <p>9 trailer?</p> <p>10 A. Passenger side, front quarter panel, passenger</p> <p>11 side door, roof line of the passenger side,</p> <p>12 the rear passenger door, the hood, front</p> <p>13 bumper, front windshield.</p> <p>14 Q. And your girlfriend has been compensated for</p> <p>15 the loss of the property to her vehicle?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And your first reaction when you saw that</p> <p>18 tractor trailer -- and you think you were</p> <p>19 about at least halfway up alongside the</p> <p>20 trailer when it started to turn -- was to</p> <p>21 brake and steer left, right?</p> <p>22 A. Yes.</p> <p>23 Q. And if I'm hearing you correctly, from the</p>

17 (Pages 65 to 68)



## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 69</p> <p>1 time you perceived of a hundred yards away up</p> <p>2 until the time that it started the left-hand</p> <p>3 time, you never hit your bakes?</p> <p>4 A. No, sir.</p> <p>5 Q. Was there any traffic behind you?</p> <p>6 A. No, sir, not that I remember.</p> <p>7 Q. When you first saw that tractor</p> <p>8 trailer-- well, strike that. I think you</p> <p>9 answered that already.</p> <p>10 Tell me what you remember as soon as</p> <p>11 everything came to rest.</p> <p>12 A. As soon as everything stopped?</p> <p>13 Q. Yes.</p> <p>14 A. Is that -- I wanted to get out of the car.</p> <p>15 I'm underneath the --</p> <p>16 Q. Did you say anything to your brother?</p> <p>17 A. I asked him if he was okay.</p> <p>18 Q. Did he respond?</p> <p>19 A. Yes. Said he was fine.</p> <p>20 Q. Said he was --</p> <p>21 A. Said he thought he was okay.</p> <p>22 Q. All right.</p> <p>23 A. And then when I asked him was he okay, I was</p>	<p style="text-align: right;">Page 71</p> <p>1 don't remember.</p> <p>2 Q. Who was the first person that arrived on the</p> <p>3 scene; was it the officer?</p> <p>4 A. As far as?</p> <p>5 Q. People responding to the scene.</p> <p>6 A. Officer McGowin was first on the scene.</p> <p>7 Q. Did you know Officer McGowin before this</p> <p>8 accident?</p> <p>9 A. No, sir.</p> <p>10 Q. Did your brother?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you speak with the driver of the tractor</p> <p>13 trailer before Officer McGowin arrived?</p> <p>14 A. No, sir. I mean, he asked me, you know, where</p> <p>15 did we come from and if we was okay. And that</p> <p>16 was about it.</p> <p>17 Q. What did you tell him?</p> <p>18 A. I said I think -- I really don't remember. I</p> <p>19 think I said, I'm fine. I mean, I was upset</p> <p>20 about my car. I remember that.</p> <p>21 Q. Did you hear any conversations between your</p> <p>22 brother and the driver of the tractor trailer?</p> <p>23 A. I don't think he ever said anything to him.</p>
<p style="text-align: right;">Page 70</p> <p>1 wondering if he was dead. Just trying to get</p> <p>2 out of the car, see what the damage was.</p> <p>3 Q. And you were able to get out, I believe we</p> <p>4 talked about earlier.</p> <p>5 (Brief interruption)</p> <p>6 Q. I apologize.</p> <p>7 You got out of the passenger's side?</p> <p>8 Excuse me. Strike that. You got out of the</p> <p>9 driver's side door?</p> <p>10 A. Yes.</p> <p>11 Q. And did you help your brother get out?</p> <p>12 A. Yes.</p> <p>13 Q. And was he able to walk around the scene?</p> <p>14 A. Yes.</p> <p>15 Q. Did he appear to be seriously injured, any</p> <p>16 bleeding, things of that nature?</p> <p>17 A. You could tell his hand -- hand was broke.</p> <p>18 Q. His hand was broken?</p> <p>19 A. Yeah.</p> <p>20 Q. Any other injuries that you noted with regard</p> <p>21 to your brother?</p> <p>22 A. I believe his -- his nose was cut. I'm not</p> <p>23 sure of anything else. I really</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Did you have any sort of confrontation with</p> <p>2 the driver of the tractor trailer? Did y'all</p> <p>3 exchange any heated words?</p> <p>4 A. No, sir.</p> <p>5 Q. Was the driver of the tractor trailer nice to</p> <p>6 you?</p> <p>7 A. We didn't really exchange any words I don't</p> <p>8 think.</p> <p>9 Q. Was the first thing that he asked you, whether</p> <p>10 or not you were okay?</p> <p>11 A. Where we came from.</p> <p>12 Q. And then he asked you if you were all right?</p> <p>13 A. Yeah.</p> <p>14 Q. Did you call 911?</p> <p>15 A. No, sir.</p> <p>16 Q. Did your brother call 911?</p> <p>17 A. No, sir.</p> <p>18 Q. Do you know if anyone did?</p> <p>19 A. Somebody who lives down on Padgett Road across</p> <p>20 from -- to my understanding now -- across from</p> <p>21 where the accident happened heard the accident</p> <p>22 and called 911 I believe. I'm not sure.</p> <p>23 Q. Are you aware of anybody that purportedly saw</p>

18 (Pages 69 to 72)

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Page 73	Page 75
<p>1 the accident happen?</p> <p>2 A. I'm not aware of anybody.</p> <p>3 Q. No witnesses?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever heard your brother talk about</p> <p>6 any witnesses to the accident?</p> <p>7 A. No, sir.</p> <p>8 Q. All right. After Officer McGowin -- when</p> <p>9 Officer McGowin got on the scene, did he speak</p> <p>10 with you?</p> <p>11 A. I really can't remember what all was said.</p> <p>12 I -- like I said, I was upset. I -- you know,</p> <p>13 other than asking me maybe if I was all right,</p> <p>14 I really don't remember.</p> <p>15 Q. Did you speak with anyone other than my client</p> <p>16 and Officer McGowin while you were on the</p> <p>17 scene and your brother and the paramedics.</p> <p>18 We've covered them.</p> <p>19 A. Yes, the paramedics. The -- my cousin, he</p> <p>20 showed -- he showed up to --</p> <p>21 Q. And that's --</p> <p>22 A. -- take me to the hospital.</p> <p>23 Q. -- Frankie, right?</p>	<p>1 than Officer McGowin about how the accident</p> <p>2 happened?</p> <p>3 A. No, sir.</p> <p>4 Q. Any other friends or relatives of yours or</p> <p>5 your brother's that arrived on the scene?</p> <p>6 A. No, sir. I -- no, sir, not that -- not that</p> <p>7 I'm aware of.</p> <p>8 Q. When you locked your brakes up right before</p> <p>9 the collision, were you sliding in any</p> <p>10 particular direction?</p> <p>11 A. Before I locked my brakes up?</p> <p>12 Q. Well, as you locked your brakes up, while they</p> <p>13 were locked?</p> <p>14 A. When I locked my brakes up, I turned my wheel</p> <p>15 to the left to keep from hitting under that</p> <p>16 trailer head-on and shearing the top of that</p> <p>17 car off.</p> <p>18 Q. And do you remember kind of traveling to the</p> <p>19 left a little before --</p> <p>20 A. I slid left because --</p> <p>21 Q. Slid. Okay.</p> <p>22 A. It stayed in a straight line with the car</p> <p>23 just -- because of the highway being wet.</p>
Page 74	Page 76
<p>1 A. Frankie. I don't think I said too much to</p> <p>2 him.</p> <p>3 Q. Did he take you directly from the scene to the</p> <p>4 hospital, or did you go somewhere else first?</p> <p>5 A. From the scene to the hospital.</p> <p>6 Q. And did he take your brother as well?</p> <p>7 A. No, sir.</p> <p>8 Q. Did your brother go to the hospital that</p> <p>9 night?</p> <p>10 A. Yes, sir.</p> <p>11 Q. How did he get there?</p> <p>12 A. I believe he rode with his ex-girlfriend --</p> <p>13 ex-wife. I'm not for sure.</p> <p>14 Q. Did anybody else come to the scene of the</p> <p>15 accident, on the scene that we haven't</p> <p>16 discussed? And I understand that there may be</p> <p>17 some people with the Andalusia PD and you</p> <p>18 didn't speak with them, you don't know who</p> <p>19 they were. There may have been fire and</p> <p>20 rescue people.</p> <p>21 A. The fire department was there, rescue, county</p> <p>22 sheriff, Andalusia police.</p> <p>23 Q. Did you speak with any of those folks other</p>	<p>1 Q. Did the driver of the tractor trailer say</p> <p>2 anything else to you about how the accident</p> <p>3 happened, anything else?</p> <p>4 A. Not that I remember.</p> <p>5 Q. All right. This is your opportunity to tell</p> <p>6 me how this accident has affected you.</p> <p>7 A. How it's affected me?</p> <p>8 Q. And by that I should -- that's a poor</p> <p>9 question. Are there any things that you used</p> <p>10 to do before the accident that you don't do</p> <p>11 anymore, hobbies, sports? Anything that this</p> <p>12 accident has changed about your life, I want</p> <p>13 to hear about it now as opposed to hearing</p> <p>14 about for the first time at trial.</p> <p>15 A. I don't play with my step boys like I did,</p> <p>16 wrestle with them, stuff like that. I don't</p> <p>17 drive next to an 18-wheeler on the highway,</p> <p>18 you know. I mean --</p> <p>19 Q. Is there anything else? I mean, some people,</p> <p>20 you know, work on cars or hunt or fish, and</p> <p>21 then they have an accident and they don't do</p> <p>22 that type of stuff anymore. Is there anything</p> <p>23 like that? Any hobbies or regular activities</p>

19 (Pages 73 to 76)

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Page 77	Page 79
<p>1 that you used to do on a regular basis that</p> <p>2 you don't do anymore?</p> <p>3 A. Just, you know, as far as playing with my step</p> <p>4 kids, roughhousing with them. I mean, you</p> <p>5 know, I don't do that.</p> <p>6 Q. Well, do you have any physical limitations?</p> <p>7 A. Such as?</p> <p>8 Q. Can you jog if you wanted to?</p> <p>9 A. I wouldn't but, you know --</p> <p>10 Q. I mean, is there a certain amount that you</p> <p>11 don't think you can lift?</p> <p>12 A. Well, now, I haven't lifted nothing over 50</p> <p>13 pounds since it happened. I'm not going to.</p> <p>14 Q. Lift over 50 pounds?</p> <p>15 A. Yeah. I'm not going to. I was --</p> <p>16 Q. And you can still drive, right?</p> <p>17 A. Oh, yeah.</p> <p>18 Q. Have you taken any vacations or trips? Have</p> <p>19 you missed out on anything?</p> <p>20 A. No vacations, no trips. We had just come back</p> <p>21 from one.</p> <p>22 Q. And I'm not trying to nitpick. I want you to</p> <p>23 think about it and be thorough. Because,</p>	<p>1 A. I had a few problems with it when I worked at</p> <p>2 Shaw. Nothing major that I remember.</p> <p>3 Q. Have you ever had an on-the-job injury?</p> <p>4 A. Not that I can remember.</p> <p>5 Q. Did you ever have a workers' compensation</p> <p>6 claim?</p> <p>7 A. Not that I -- I'm not sure.</p> <p>8 Q. Sometimes people need clarification as to what</p> <p>9 that can entail.</p> <p>10 Have you ever gone to the doctor for an</p> <p>11 injury or bodily pain, what have you, and your</p> <p>12 employer paid for it because you thought it</p> <p>13 was related to your job?</p> <p>14 A. Like I said, I'm trying to remember. It's</p> <p>15 been awhile since I worked, you know, at Shaw.</p> <p>16 Q. Tell me what kind of problems you were having</p> <p>17 with your back when you were at Shaw?</p> <p>18 A. I think it was -- not sure -- pulled -- I</p> <p>19 believe I pulled a muscle in it a couple of</p> <p>20 times.</p> <p>21 Q. What area of your -- was it your lower back?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Same area that you believe was hurt in this</p>
Page 78	Page 80
<p>1 again, I really want to know and what I want</p> <p>2 you to describe to me is how all this has</p> <p>3 affected you. I need to know about it now.</p> <p>4 A. I didn't sleep real good for --</p> <p>5 Q. Right.</p> <p>6 A. -- about four weeks after the accident. I</p> <p>7 mean, between the back pain and seeing the</p> <p>8 side of that 18-wheeler come over the top of</p> <p>9 me. You know, I sure won't drive beside one</p> <p>10 on the highway anymore. I mean--</p> <p>11 Q. I can appreciate that.</p> <p>12 A. I don't -- I'm not going to overdo my back</p> <p>13 anymore. I mean, seem like -- you got it</p> <p>14 right there where I had to go back, after</p> <p>15 changing a tire, to the doctor. You know,</p> <p>16 now, even I can tell it. Everybody I've</p> <p>17 worked with can tell it, that if I've worked</p> <p>18 too hard that day, I mean, like I used to, I</p> <p>19 pay for it that night.</p> <p>20 Q. Okay. And I've got just a few more</p> <p>21 questions. We're about done.</p> <p>22 Have you ever sought any medical treatment</p> <p>23 for your lower back before this accident?</p>	<p>1 accident?</p> <p>2 A. Yes, sir, that same area.</p> <p>3 Q. Did you treat with any physicians for that?</p> <p>4 A. Dr. Boyington I believe was the one who looked</p> <p>5 at me.</p> <p>6 Q. Did he prescribe you any pain medication for</p> <p>7 it?</p> <p>8 A. I really don't remember. It's been so long</p> <p>9 ago.</p> <p>10 Q. Did he do any tests on you?</p> <p>11 A. I believe he took x-rays. I know I took an</p> <p>12 MRI one time.</p> <p>13 Q. For your lower back?</p> <p>14 A. I'm not sure if it was the lower back or not.</p> <p>15 Q. Did he hold you out of work, or did you ever</p> <p>16 miss any work for this treatment?</p> <p>17 A. I really can't remember. I mean, it's been so</p> <p>18 long ago.</p> <p>19 Q. You don't remember when it was?</p> <p>20 A. No, sir.</p> <p>21 Q. Do you remember what years you worked for</p> <p>22 Shaw? I don't think I've asked you that.</p> <p>23 A. I started in 11/6 of '96 because it was on my</p>

20 (Pages 77 to 80)

## FREEDOM COURT REPORTING

<p style="text-align: right;">Page 81</p> <p>1 badge. I remember my hire date. And I work 2 from '96 to 2003, something 3 like -- no -- yeah. I think. I'm not sure. 4 Q. Prior to this accident, have you treated with 5 any other health care providers, other than 6 Dr. Boyington, for your lower back? 7 A. No, sir. He should be -- 8 Q. Prior to this accident, have you ever treated 9 with any health care providers for your neck 10 or your knee? 11 A. Dr. Boyington pretty much handles everything. 12 So if -- 13 Q. Do you recall going to see him before this 14 accident specifically for neck pain or knee 15 pain? 16 A. I hadn't been to see Dr. Boyington in a 17 while. It's been a couple of years since I 18 saw him. 19 Q. What were you doing out at Shaw that you think 20 might have aggravated your back? 21 A. Have you ever been in a carpet 22 manufacturing -- 23 Q. No. But I can imagine. Is it just a lot of</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. All right. Mr. Lawson, tell me each and every 2 thing you believe my client did or failed to 3 do that caused this accident? The driver of 4 the tractor trailer. 5 A. What he did that caused the accident? 6 Q. If you believe that he did cause it. 7 A. He made a left-hand turn from the right-hand 8 lane across the highway. 9 Q. Anything else? 10 A. As far as I know, he didn't give a signal. I 11 really don't remember that part, but I 12 remember -- specifically remember him making 13 the left-hand turn. 14 Q. Is it possible that he could have signaled and 15 you didn't see it? Is that possible? 16 A. I'm not sure. I mean, I really don't know if 17 he did. I mean, I don't recall seeing a 18 signal. 19 Q. Fair enough. You've told me about all your 20 past employers? 21 A. Yes, sir. 22 Q. You've told me about all the medical providers 23 that you've treated with in the past ten</p>
<p style="text-align: right;">Page 82</p> <p>1 heavy lifting? 2 A. It's 12 hours of bending over, doing the job I 3 done. Twelve hours of bending over, picking 4 up 10-pound packages every seven minutes. 5 Q. For 12 straight hours? 6 A. Yes, I believe so. It's been awhile since 7 I've done it. 8 Q. And how long did you do that? 9 A. I done that for seven -- seven years, six 10 years. Six years. 11 Q. And how long had it been -- 12 A. Instructed in the same department for three 13 years, then transferred to a new department. 14 Q. And how long had it been since you had done 15 that type of work when this accident happened? 16 A. A year. 17 Q. How long had it been since your back bothered 18 from Shaw? 19 A. Let's see. My back hadn't bothered me -- I 20 know the whole time I was in my new department 21 it didn't bother me. It had been awhile since 22 I had seen Dr. Boyington. I -- two -- two and 23 a half, three years, something like that.</p>	<p style="text-align: right;">Page 84</p> <p>1 years -- 2 A. Yes, sir. 3 Q. -- to the best of your memory? 4 A. Yes, sir. 5 Q. You've told me about all the expenses you've 6 got out of pocket following this accident? 7 A. Best I can remember, yes. 8 Q. Then tell me what you want out of this 9 lawsuit? 10 MR. HAYES: Object to the form. 11 A. I really -- 12 MR. JONES: Let me say -- Lea, are you 13 talking about financially? I mean, 14 that's kind of an unusual question, I 15 thought, to ask. 16 MR. RICHMOND: Yeah. I mean, he's filed 17 this lawsuit against my clients. It's 18 his lawsuit. I just want to know what 19 he's seeking. 20 A. I really -- 21 MR. JONES: Well, let me say this. Has 22 Matt given you a demand? 23 MR. RICHMOND: He has.</p>

21 (Pages 81 to 84)

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1 MR. JONES: What was that demand?  
2 MR. RICHMOND: Well, let's keep that off  
3 the Record. But, yeah, he has given  
4 me a demand.

5 MR. HAYES: We're going to take a break  
6 for a minute.

7 (Brief recess)

8 Q. We're just about done, Mr. Lawson. Just  
9 before we took a break, I asked you what  
10 you're seeking or you are looking for from my  
11 clients in this lawsuit.

12 A. I've never been through anything like this  
13 before. My understanding is, a jury decides  
14 that. I mean, I really -- really couldn't  
15 tell you. I mean, I don't know.

16 Q. Well, you personally, are there particular  
17 things or items, sums of money, or  
18 communication that you're seeking from my  
19 clients? Can you be more specific?

20 A. I mean, like I said, that's -- never been  
21 through anything like this before. I mean,  
22 like I said, I -- I was under the assumption  
23 that a jury decided, you know, how the outcome

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1 of it, you know. I mean --

2 Q. All right. Is there anything I didn't ask  
3 you that -- just kidding.

4 Thank you.

5 (Deposition concluded at 2:50 p.m.)

6 \*\*\*\*\*

7 FURTHER DEPONENT SAITH NOT

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22 (Pages 85 to 86)

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## FREEDOM COURT REPORTING

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4</p> <p>5</p> <p>6 SCOTT D. LAWSON and</p> <p>7 STEVEN LAWSON,</p> <p>8 Plaintiffs,</p> <p>9 vs. CASE NO. 2:07cv356-MHT</p> <p>10 SWIFT TRANSPORTATION</p> <p>11 CO., INC., and</p> <p>12 FREDRICK S. MARTIN, JR.,</p> <p>13 Defendants.</p> <p>14 *****</p> <p>15 DEPOSITION OF STEVEN WILSON LAWSON, taken</p> <p>16 pursuant to stipulation and agreement before Sherry</p> <p>17 McCaskey, Certified Court Reporter and Commissioner</p> <p>18 for the State of Alabama at Large, in the Law</p> <p>19 Offices of Jones &amp; Jones, 530 East Three Notch</p> <p>20 Street, Andalusia, Alabama, on Tuesday, October 23,</p> <p>21 2007, commencing at approximately 3:00 p.m.</p> <p>22 *****</p> <p>23</p>	<p>1 formality of a commission; that objections to</p> <p>2 questions other than objections as to the form of</p> <p>3 the questions need not be made at this time but may</p> <p>4 be reserved for a ruling at such time as the</p> <p>5 deposition may be offered in evidence or used for</p> <p>6 any other purpose as provided for by the Alabama</p> <p>7 Rules of Civil Procedure.</p> <p>8 It is further stipulated and agreed by and</p> <p>9 between counsel representing the parties that the</p> <p>10 filing of the deposition is hereby waived and that</p> <p>11 the deposition may be introduced at the trial of</p> <p>12 this case or used in any manner by either party</p> <p>13 hereto provided for by the Statute.</p> <p>14 It is further stipulated and agreed by and</p> <p>15 between the parties hereto and the witness that the</p> <p>16 signature of the witness to this Deposition is</p> <p>17 hereby waived.</p> <p>18 *****</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
Page 2	Page 4
<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 JOSHUA P. HAYES, ESQUIRE</p> <p>4 Prince Glover Law</p> <p>5 Attorneys at Law</p> <p>6 1 Cypress Point</p> <p>7 701 Rice Mine Road N.</p> <p>8 Tuscaloosa, Alabama 35406</p> <p>9</p> <p>10 JOHN F. JONES, JR., ESQUIRE</p> <p>11 Jones &amp; Jones, P.C.</p> <p>12 Attorneys at Law</p> <p>13 530 East Three Notch Street</p> <p>14 Andalusia, Alabama 36420</p> <p>15</p> <p>16 FOR THE DEFENDANTS:</p> <p>17 LEA RICHMOND, IV, ESQUIRE</p> <p>18 Carr, Allison, Pugh,</p> <p>19 Howard, Oliver &amp; Sisson, P.C.</p> <p>20 Attorneys at Law</p> <p>21 100 Vestavia Parkway</p> <p>22 Birmingham, Alabama 35216</p> <p>23 *****</p> <p>24 STIPULATIONS</p> <p>25 It is hereby stipulated and agreed by and</p> <p>26 between counsel representing the parties that the</p> <p>27 deposition of STEVEN WILSON LAWSON is taken pursuant</p> <p>28 to stipulation and agreement; that all formalities</p> <p>29 with respect to procedural requirements are waived;</p> <p>30 that said deposition may be taken before Sherry</p> <p>31 McCaskey, Certified Court Reporter and Commissioner</p> <p>32 for the State of Alabama at Large, without the</p>	<p>1 STEVEN WILSON LAWSON</p> <p>2 The witness, having first been duly sworn to</p> <p>3 speak the truth, the whole truth and nothing but the</p> <p>4 truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. RICHMOND:</p> <p>7 Q. Would you please state your full name for the</p> <p>8 record, sir?</p> <p>9 A. Steven Wilson Lawson.</p> <p>10 Q. Mr. Lawson, my name is Lea Richmond. I</p> <p>11 represent Swift Transportation Company,</p> <p>12 Incorporated and Mr. Fredrick Martin in a</p> <p>13 lawsuit that you filed against that company</p> <p>14 and that individual.</p> <p>15 You were present for your brother's</p> <p>16 deposition, correct?</p> <p>17 A. Yes, sir.</p> <p>18 Q. So you heard me go over the ground rules about</p> <p>19 how to proceed in the deposition, always give</p> <p>20 a verbal response.</p> <p>21 A. Yes.</p> <p>22 Q. Always let me finish my question before you</p> <p>23 answer.</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. Always let me know if you don't understand my</p> <p>3 question.</p> <p>4 A. Yes, sir.</p> <p>5 Q. But if you do answer it, you're under oath, no</p> <p>6 different than if we were in the courthouse.</p> <p>7 A. Yes, sir.</p> <p>8 Q. We're good to go there.</p> <p>9 A. Yes, sir.</p> <p>10 Q. What's your date of birth, sir?</p> <p>11 A. 6/15/81.</p> <p>12 Q. What's your driver's license number?</p> <p>13 A. One second. I hadn't got it memorized.</p> <p>14 Q. I don't either.</p> <p>15 A. 6780511.</p> <p>16 Q. 6780511?</p> <p>17 A. Yes, sir.</p> <p>18 Q. It's an Alabama license?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Never had license in any other state, have</p> <p>21 you?</p> <p>22 A. No, sir.</p> <p>23 Q. Have you ever had a commercial driver's</p>	<p>1 A. Separated.</p> <p>2 Q. Who were you married to -- or are you married</p> <p>3 to and separated from?</p> <p>4 A. Not married but separated. It's Donna Yvonne</p> <p>5 Donaldson.</p> <p>6 Q. Have you ever been legally married to Donna?</p> <p>7 A. No.</p> <p>8 Q. How long have you and Donna been together or</p> <p>9 were together?</p> <p>10 A. Ten years.</p> <p>11 Q. And did she live with you at the time of this</p> <p>12 accident?</p> <p>13 A. No, sir.</p> <p>14 Q. You were separated at the time of the</p> <p>15 accident?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And what are the names of your two children?</p> <p>18 A. Gracie Yvonne Lawson.</p> <p>19 Q. And how old is she?</p> <p>20 A. Four. And Ripley Nicole Lawson.</p> <p>21 Q. First name is Ripley?</p> <p>22 A. Ripley, R-I-P-L-E-Y.</p> <p>23 Q. Nicole Lawson. And their ages?</p>
Page 6	Page 8
<p>1 license?</p> <p>2 A. No, sir.</p> <p>3 Q. Has your license ever been suspended in the</p> <p>4 past for any reason?</p> <p>5 A. No, sir.</p> <p>6 Q. Ever been revoked in the past for any reason?</p> <p>7 A. No, sir.</p> <p>8 Q. Do you have any restrictions on that license?</p> <p>9 A. Eyeglasses. That's it.</p> <p>10 Q. Did you have any restrictions at the time of</p> <p>11 this accident?</p> <p>12 A. No. Glasses.</p> <p>13 Q. What's your Social Security number?</p> <p>14 A. 416-27-1225.</p> <p>15 Q. What was your address at the time of this</p> <p>16 accident?</p> <p>17 A. 21123 Loop Road, Andalusia, Alabama.</p> <p>18 Q. I understand your mother resided at that</p> <p>19 address?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Anybody else live at that address?</p> <p>22 A. My father and my two children.</p> <p>23 Q. Are you married?</p>	<p>1 A. Four and two.</p> <p>2 Q. And they live with Donna?</p> <p>3 A. No, sir.</p> <p>4 Q. Who do they live with?</p> <p>5 A. They live with me.</p> <p>6 Q. They live with you. And do you have custody</p> <p>7 of them?</p> <p>8 A. Joint custody with her.</p> <p>9 Q. And I assume they're financially dependent</p> <p>10 upon you?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And do you still live at the Loop Road</p> <p>13 address?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And does your mother still there?</p> <p>16 A. Yes.</p> <p>17 Q. Does your father still live there?</p> <p>18 A. Yes, sir.</p> <p>19 Q. Anyone else?</p> <p>20 A. No, sir.</p> <p>21 Q. No other children?</p> <p>22 A. No, sir.</p> <p>23 Q. No other spouses in the past?</p>

2 (Pages 5 to 8)

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## FREEDOM COURT REPORTING

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<p>1 A. No, sir.</p> <p>2 Q. Have you ever been in the military?</p> <p>3 A. No, sir.</p> <p>4 Q. Born and raised in Andalusia, Alabama?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Have you ever lived outside the state of</p> <p>7 Alabama?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you ever lived in any other part of the</p> <p>10 state other than the Andalusia area?</p> <p>11 A. No, sir.</p> <p>12 MR. RICHMOND: And, Josh, I didn't go</p> <p>13 through all this, but can we agree to</p> <p>14 get a list, just swap a list?</p> <p>15 MR. HAYES: Of family?</p> <p>16 MR. RICHMOND: Families in the Middle</p> <p>17 District.</p> <p>18 MR. HAYES: Sure.</p> <p>19 Q. Tell me about your educational background?</p> <p>20 A. Straughn -- Straughn High School. I didn't</p> <p>21 graduate. The last grade I completed was the</p> <p>22 11th. I quit and went to work the next day.</p> <p>23 Q. Did you go back and get your GED?</p>	<p>1 Q. Have you ever filed for disability benefits of</p> <p>2 any kind?</p> <p>3 A. No, sir.</p> <p>4 Q. Have you filed for any Social Security</p> <p>5 benefits?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you ever been arrested?</p> <p>8 A. No, sir.</p> <p>9 Q. Have you ever been involved in any motor</p> <p>10 vehicle accidents other than the accident</p> <p>11 we're here about today?</p> <p>12 A. No, sir.</p> <p>13 Q. You're positive?</p> <p>14 A. I think one fender bender, and that was it.</p> <p>15 That's been years ago.</p> <p>16 Q. Did you go to the emergency room after that</p> <p>17 accident?</p> <p>18 A. No, sir. No, sir.</p> <p>19 Q. Was anybody injured in that accident?</p> <p>20 A. No, sir.</p> <p>21 Q. Were the police called for that accident?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Was there a report filled out?</p>
Page 10	Page 12
<p>1 A. No, sir.</p> <p>2 Q. Ever return to the classroom setting after the</p> <p>3 11th grade?</p> <p>4 A. MacArthur Vocational College. Took welding</p> <p>5 for three semesters.</p> <p>6 Q. And did you obtain the certificate?</p> <p>7 A. No, sir.</p> <p>8 Q. How many semesters did you lack?</p> <p>9 A. A semester and a half.</p> <p>10 Q. Do you have any intention of going back?</p> <p>11 A. One day maybe.</p> <p>12 Q. I understand there's pretty good money in</p> <p>13 welding?</p> <p>14 A. Right.</p> <p>15 Q. Why did you stop?</p> <p>16 A. Domestic problems between me and --</p> <p>17 Q. Donna?</p> <p>18 A. -- my spouse. Yes.</p> <p>19 Q. Have you ever filed for bankruptcy?</p> <p>20 A. No, sir.</p> <p>21 Q. Have you ever filed for unemployment</p> <p>22 compensation?</p> <p>23 A. No, sir.</p>	<p>1 A. Yes, sir.</p> <p>2 Q. Were there any insurance claims made that</p> <p>3 you're aware of?</p> <p>4 A. I'm not aware of. It wasn't my car.</p> <p>5 Q. Have you ever treated with a psychiatrist or</p> <p>6 psychologist?</p> <p>7 A. No, sir.</p> <p>8 Q. Do you drink alcohol?</p> <p>9 A. No, sir.</p> <p>10 Q. Did you at the time of this accident?</p> <p>11 A. No, sir.</p> <p>12 Q. Had you consumed any alcohol in the 24 hours</p> <p>13 before this accident?</p> <p>14 A. No, sir.</p> <p>15 Q. Had you ingested any drugs of any type within</p> <p>16 24 hours before the accident?</p> <p>17 A. No, sir.</p> <p>18 Q. Have you ever been involved in any other</p> <p>19 lawsuits?</p> <p>20 A. No, sir.</p> <p>21 Q. Have you ever had a workers' compensation</p> <p>22 claim?</p> <p>23 A. No, sir.</p>

3 (Pages 9 to 12)

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Page 13	Page 15
<p>1 Q. Have you ever been injured on the job?</p> <p>2 A. No, sir.</p> <p>3 Q. Have you ever been hospitalized?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever had surgery?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you ever had any outpatient treatment</p> <p>8 done?</p> <p>9 A. No, sir.</p> <p>10 Q. And you told me you've never been in the</p> <p>11 military?</p> <p>12 A. No, sir, I haven't been in the military.</p> <p>13 Q. Were you taking any prescription medication --</p> <p>14 and I mean anything, not just pain</p> <p>15 medication. Sometimes people equate that to</p> <p>16 pain medication. For acid reflux, any type of</p> <p>17 medication at the time of this accident?</p> <p>18 A. No, sir.</p> <p>19 Q. Are you claiming any lost earning capacity,</p> <p>20 ability to make a living as the component of</p> <p>21 damages in this case?</p> <p>22 A. I don't understand the question.</p> <p>23 Q. Okay. Are you claiming that the injuries you</p>	<p>1 MR. HAYES: Yes.</p> <p>2 MR. RICHMOND: If those claims are made.</p> <p>3 MR. HAYES: That's right.</p> <p>4 MR. RICHMOND: Fair enough.</p> <p>5 Q. Same type question you heard me ask your</p> <p>6 brother, I want you to walk me through your</p> <p>7 recollection of the date of the accident,</p> <p>8 starting with the morning of the accident,</p> <p>9 where you woke up, what you did throughout the</p> <p>10 day, who you were with.</p> <p>11 A. Well, it was raining about like today. So I</p> <p>12 roof for a living, so you can't work in the</p> <p>13 rain. So I was off work that day.</p> <p>14 MR. HAYES: Will you speak up a little</p> <p>15 bit? She's having a hard time hearing</p> <p>16 you.</p> <p>17 A. It was raining that day. I couldn't work</p> <p>18 because I roof. And I was my mother's because</p> <p>19 I had separated from my girlfriend. And my</p> <p>20 brother come by that afternoon about an hour</p> <p>21 or so before dark, wanted me to ride with him</p> <p>22 to town so he could get something to eat. So</p> <p>23 okay. You know, that's fine. I had to go by</p>
Page 14	Page 16
<p>1 received as a result of this accident have</p> <p>2 hindered or impaired your ability to earn a</p> <p>3 living in the future? Not time that you've</p> <p>4 missed from work in the past.</p> <p>5 A. Right.</p> <p>6 Q. That's lost wages. But I'm talking about your</p> <p>7 ability to earn a living in the future.</p> <p>8 A. I will be out of work for 12 weeks when I go</p> <p>9 have my surgery on my hand.</p> <p>10 Q. Okay. Have you made a decision to have that</p> <p>11 surgery?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Has a physician recommended that surgery?</p> <p>14 A. Yes, sir.</p> <p>15 MR. RICHMOND: Josh, can we agree to come</p> <p>16 back and revisit that issue if it's</p> <p>17 relevant after he has the surgery if</p> <p>18 he does have the surgery.</p> <p>19 MR. HAYES: Yeah, for that limited</p> <p>20 purpose, we'll put him up for a second</p> <p>21 deposition.</p> <p>22 MR. RICHMOND: For permanent impairment</p> <p>23 and lost earning capacity?</p>	<p>1 the store anyway. So I rode with him. We</p> <p>2 stopped by the store, got a drink and pack of</p> <p>3 cigarettes. We left from there.</p> <p>4 Q. Do you remember what store that was?</p> <p>5 A. Friendly's.</p> <p>6 Q. That's a convenience store on 84?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Did you go into the store?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did you pay cash for your cigarettes and</p> <p>11 drink?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Do you remember if your brother paid cash?</p> <p>14 A. I believe so.</p> <p>15 Q. Would that be habit and practice to pay for</p> <p>16 items such as that with cash?</p> <p>17 A. Yes, sir.</p> <p>18 Q. Go ahead. I'm sorry.</p> <p>19 A. And went from there to Church's, got food.</p> <p>20 Left from there. I sat in the car; he went in</p> <p>21 and got it.</p> <p>22 Q. Let me interrupt you again real quick, and I'm</p> <p>23 not prying here. I just need to get some</p>

4 (Pages 13 to 16)

## FREEDOM COURT REPORTING

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<p>1 specifics, if you remember about what time it</p> <p>2 was when you left Church's?</p> <p>3 A. It was getting dark, so that time of year, I</p> <p>4 would have to guess about seven o'clock or so</p> <p>5 maybe a little after that.</p> <p>6 Q. Did you have a cell phone at the time of the</p> <p>7 accident?</p> <p>8 A. Yes, sir, I did.</p> <p>9 Q. And what was your cell phone number?</p> <p>10 A. I really can't remember at this point.</p> <p>11 Q. Do you remember who you have service with?</p> <p>12 A. SouthernLINC.</p> <p>13 Q. SouthernLINC. Do you have a cell phone now?</p> <p>14 A. No, sir.</p> <p>15 Q. You no longer have the phone that you had then</p> <p>16 with SouthernLINC?</p> <p>17 A. Yes.</p> <p>18 Q. Were the bills in your name?</p> <p>19 A. No.</p> <p>20 Q. Whose --</p> <p>21 A. Emily Norris.</p> <p>22 Q. And Emily Norris was who?</p> <p>23 A. Friend of my ex.</p>	<p>1 A. She is at work at the Opp Nursing Home.</p> <p>2 Q. She works at the Opp Nursing Home?</p> <p>3 A. Yes.</p> <p>4 Q. Tell me Donna's last name again?.</p> <p>5 A. Donaldson.</p> <p>6 Q. Donaldson. Do you know what her residential</p> <p>7 address is?</p> <p>8 A. I can't remember it right off. I know at this</p> <p>9 time US 331, Opp, something.</p> <p>10 Q. Have you got a telephone number for her?</p> <p>11 A. 493-7270.</p> <p>12 Q. Is that a cell phone?</p> <p>13 A. No, sir.</p> <p>14 Q. That's her home phone?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Area code 334?</p> <p>17 A. Yes, sir.</p> <p>18 Q. All right. Proceed with what happened after</p> <p>19 you left Church's Chicken that night?</p> <p>20 A. As we pulled out of the parking lot of</p> <p>21 Church's Chicken, like I say, it was getting</p> <p>22 dark. We proceeded to go through the red</p> <p>23 light there at the by -- by Hardee's and all</p>
Page 18	Page 20
<p>1 Q. Why was your cell phone in her name?</p> <p>2 A. Because she was on a contract and had three</p> <p>3 phones, and she asked me because she would</p> <p>4 have a \$200 cancellation fee if she cancelled</p> <p>5 that line. So I told her I would pay the</p> <p>6 bill, and I took the phone.</p> <p>7 Q. And so you received the bills from her, or did</p> <p>8 you get the bills from -- sent to your address</p> <p>9 at Loop Road?</p> <p>10 A. I received the bills from her.</p> <p>11 Q. All right. Do you have a phone number for</p> <p>12 Emily now?</p> <p>13 A. No.</p> <p>14 Q. Do you know the address for Emily?</p> <p>15 A. No.</p> <p>16 Q. If you wanted to find Emily, how would you go</p> <p>17 about doing that?</p> <p>18 A. I really have no idea at this point.</p> <p>19 Q. She's a friend of your --</p> <p>20 A. Ex.</p> <p>21 Q. Donna?</p> <p>22 A. Right.</p> <p>23 Q. And where is Donna right now?</p>	<p>1 at that intersection. Turned right. Started</p> <p>2 going down 84. As we come across the bridge,</p> <p>3 going up the hill --</p> <p>4 Q. What was the weather like; was it raining</p> <p>5 still?</p> <p>6 A. Yeah, it was misting rain.</p> <p>7 Come up over the hill. The truck was</p> <p>8 sitting still in the right-hand lane. So we</p> <p>9 put on our blinker to get over to the</p> <p>10 left-hand lane, then he proceeded to turn in</p> <p>11 front of us and block both lanes of traffic.</p> <p>12 We had nowhere to go except under the truck.</p> <p>13 And that's really all I remember, to tell you</p> <p>14 the truth. I don't remember seeing him give a</p> <p>15 blinker. All I remember seeing is his</p> <p>16 taillights.</p> <p>17 Q. As you were going down 84 before you saw the</p> <p>18 tractor trailer, was your window down?</p> <p>19 A. No, sir.</p> <p>20 Q. You weren't smoking?</p> <p>21 A. No, sir.</p> <p>22 Q. Your brother wasn't smoking?</p> <p>23 A. No, sir.</p>

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<p>1 Q. Did y'all have the radio on?</p> <p>2 A. No, sir.</p> <p>3 Q. We y'all eating the chicken?</p> <p>4 A. No, sir.</p> <p>5 Q. No one was eating anything in the car?</p> <p>6 A. No, sir.</p> <p>7 Q. Were his windshield wipers on?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Were his headlights on?</p> <p>10 A. Yes, sir.</p> <p>11 Q. You have a specific memory of the windshield wipers and the headlights?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Who noticed the tractor trailer first, if you know? Was it you or your brother?</p> <p>14 A. I can't recall.</p> <p>15 Q. You did see the tractor trailer at some point?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And you heard me ask your brother questions about distance. Do you have any judgment as to how far back you were from the tractor trailer when you first saw it?</p> <p>18 A. It was dark. I really couldn't give you a</p>	<p>1 Q. -- from the point in time you saw it up until the time of the impact?</p> <p>2 A. No.</p> <p>3 Q. Did your brother say anything about the tractor trailer before he moved into the left-hand lane?</p> <p>4 A. No, not that I remember.</p> <p>5 Q. Do you remember how much time passed from the point in time that you saw the tractor trailer and then your brother moved over into the left-hand lane?</p> <p>6 A. Maybe two, three seconds.</p> <p>7 Q. Do you have a judgment or recollection as to how fast you were going after you got into the left-hand lane?</p> <p>8 A. I have no idea. I was on the passenger's side. I couldn't tell you.</p> <p>9 Q. Do you have a judgment as to how much time passed from the point that your brother got in the left-hand lane until you caught the tractor trailer?</p> <p>10 A. Seconds.</p> <p>11 Q. More or less than five seconds, if you had to</p>
Page 22	Page 24
<p>1 distance. I couldn't. I mean, there is no way to judge it.</p> <p>2 Q. Now, you heard your brother say that it was closer to a hundred yards than it was to 50. Is your memory consistent?</p> <p>3 A. It might have been. Like I say, I couldn't judge it. I don't know. It was dark, raining. It could have been closer.</p> <p>4 Q. What drew your attention to the tractor trailer?</p> <p>5 A. He was sitting still, barely moving, one of the two. It was dark. Like I say, you couldn't tell. He might have been moving, but he wasn't moving very fast.</p> <p>6 Q. Could you see the lights on the trailer?</p> <p>7 A. The taillights.</p> <p>8 Q. Could you see brake lights?</p> <p>9 A. No.</p> <p>10 Q. Did you see a blinker?</p> <p>11 A. No.</p> <p>12 Q. Did you see his blinker or turn signal engaged at any time --</p> <p>13 A. No.</p>	<p>1 give a judgment?</p> <p>2 A. Probably five seconds.</p> <p>3 Q. About five seconds.</p> <p>4 Could you tell if your brother was braking at all during that time period?</p> <p>5 A. He turned the wheel to the left and stomped the brakes.</p> <p>6 Q. Now, this is before -- my frame of question is -- is this is why I'm saying we've got to make sure we're on the same page, and it's my job to make sure we're doing that.</p> <p>7 Is it before you caught the tractor trailer? Do know if he ever got on the brakes before you reached the trailer?</p> <p>8 A. Yes, sir. We was -- as far as I know, he hit the brakes and turned to the left before impact.</p> <p>9 Q. Before impact. But my question is, you would have had to have reached the trailer or maybe you didn't. Strike that.</p> <p>10 Where were you in relation to the trailer when that tractor started to turn? Had you caught the trailer yet?</p>

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<p>1 A. Not yet. He turned. We had nowhere to go 2 except under the trailer. That's really all I 3 remember about it. 4 Q. Right. But my question is, here's the 5 trailer -- and I'm no artist -- and here's the 6 tractor. And you guys are proceeding, having 7 moved over into the left-hand lane. And did 8 that trailer -- strike that. Did that tractor 9 start to turn left before you got even with 10 the end of the trailer? 11 A. Yes. 12 Q. It did? Do you have a judgment as to how far 13 back you were from the end of that trailer 14 when that tractor started its left-hand turn? 15 A. I have no idea. 16 Q. Ten yards, twenty yards? 17 A. I could guess. 18 MR. HAYES: Don't guess. Nobody wants 19 your guesses. 20 Q. No, I don't want you to guess to it. If you 21 have any sort of judgment at all -- 22 A. I really have no idea. 23 Q. Were you close enough to where you could have</p>	<p>1 A. No, sir. He was all the way across in both 2 lanes. 3 Q. So that tractor was all the way over here into 4 the median when your brother started to brake 5 and steer? 6 A. He was like this (indicating). Here is both 7 lanes of traffic. We were here (indicating). 8 He was all the way across. That's what I 9 remember. He took up both lanes of the road. 10 We had nowhere to go except under him. 11 Q. Right. Now, are you referring to the point of 12 impact or when your brother started to brake 13 and steer? 14 A. When we started to brake and steer. 15 Q. Okay. Do you have any judgment as to how far 16 you slid once your brother -- 17 A. I have no idea. 18 Q. You don't have any judgment as to how much 19 time passed from the point in time you 20 realized this tractor was coming over and the 21 impact occurred? 22 A. No. 23 Q. Do you know what portion of your vehicle</p>
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<p>1 read the license plate on that trailer if you 2 had wanted to? 3 A. I really can't remember, to tell you the 4 truth. 5 Q. But you don't think you saw a blinker? 6 A. No. 7 Q. And you do know that you were still behind the 8 trailer to a certain distance with that 9 tractor started its left-hand turn? 10 A. Yes. 11 Q. At what point did your brother apply the 12 brakes, if you have a judgment? 13 A. I really couldn't tell you, when he took up 14 both lanes of the road. 15 Q. Did he brake and steer simultaneously? 16 A. Yes, sir. 17 Q. Do you have a judgment as to how far that 18 tractor was into its turn when he started to 19 brake and steer? 20 A. I really can't remember. 21 Q. Do you remember if that tractor was completely 22 out of the left-hand lane by the time your 23 brother braked and steered?</p>	<p>1 struck the trailer? 2 A. My side of the car was up under the trailer. 3 Q. Do you know what part of the trailer? Was it 4 the front end toward the pull tires or back 5 towards the tandems? 6 A. It was close to the tires is all I can tell, 7 is where we hit. 8 Q. Do you remember if your vehicle moved at all 9 after the impact? 10 A. Yes, sir. We hit about probably center ways, 11 a little farther back. And then he drug us up 12 into the median. 13 Q. Did any part of your body strike the interior 14 of the Chevy at impact? 15 A. I can't remember. 16 Q. Tell me what the first thing you do remember 17 is after the vehicles came to rest. 18 A. After the vehicles came to rest, there was 19 blood on my shirt from where my nose was 20 bleeding -- 21 Q. Did your air bag deploy? 22 A. -- I guess from the air bag. Yes, sir. And 23 my hand was broke.</p>

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<p>1 Q. Did you say anything to your brother?</p> <p>2 A. Told him, help me out the car.</p> <p>3 Q. Did you hear him ask you if you were all</p> <p>4 right?</p> <p>5 A. Yes, sir, he asked me if I was all right.</p> <p>6 Q. And what did you say?</p> <p>7 A. I said, yeah, I think.</p> <p>8 Q. And did you ask him if he was okay?</p> <p>9 A. I -- not at that point.</p> <p>10 Q. Did you ever ask him if he was all right at</p> <p>11 the scene?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And what did he say?</p> <p>14 A. He said, as far as I know right now.</p> <p>15 Q. Did your brother help you out of the car?</p> <p>16 A. Somewhat. I mean, I had to get myself out of</p> <p>17 the car because I was up under the trailer.</p> <p>18 The was really no way he could help me get out</p> <p>19 besides put his hand in. I grabbed his hand,</p> <p>20 and he helped me come through the car.</p> <p>21 Q. And he grabbed your hand and guided you</p> <p>22 through the car?</p> <p>23 A. Yes, sir, my left hand.</p>	<p>1 understood to be the passenger of the tractor</p> <p>2 trailer. Did you ever see your brother</p> <p>3 conversing with that person?</p> <p>4 A. Can't remember.</p> <p>5 Q. Did you make any phone calls from your cell</p> <p>6 phone while you were on the scene?</p> <p>7 A. Yes, sir.</p> <p>8 Q. How many phone calls did you make?</p> <p>9 A. I made one.</p> <p>10 Q. Who did you call?</p> <p>11 A. My ex.</p> <p>12 Q. Donna?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And what did you tell her?</p> <p>15 A. I told her that I had just gotten in a wreck.</p> <p>16 Q. Did you tell her anything else?</p> <p>17 A. I told her that my hand was broke, and she</p> <p>18 said she'd be there in a minute.</p> <p>19 Q. Did she come to the scene?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Did any other friends or relatives come to</p> <p>22 scene?</p> <p>23 A. No, sir.</p>
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<p>1 Q. And then once you got out on the pavement,</p> <p>2 were you able to stand and walk around the</p> <p>3 scene on your own?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And I appreciate the fact that you were shaken</p> <p>6 up, but you didn't have any bodily injuries</p> <p>7 that prevented you from ambulating around the</p> <p>8 scene?</p> <p>9 A. No, sir.</p> <p>10 Q. Was the officer already there by the time you</p> <p>11 got out of the car?</p> <p>12 A. No, sir.</p> <p>13 Q. Did you ever speak with the driver of the</p> <p>14 tractor trailer?</p> <p>15 A. No, sir.</p> <p>16 Q. Did you ever speak with someone that you</p> <p>17 understood to be a passenger in the tractor</p> <p>18 trailer?</p> <p>19 A. Really can't remember.</p> <p>20 Q. Do you ever remember seeing your brother talk</p> <p>21 to the driver of the tractor trailer?</p> <p>22 A. Can't remember.</p> <p>23 Q. The same question relative to someone that you</p>	<p>1 Q. Did you make any other phone calls?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you speak with Officer McGowin on the</p> <p>4 scene?</p> <p>5 A. Best I can remember, he got my personal</p> <p>6 information, and that was it.</p> <p>7 Q. He didn't ask you about how the accident</p> <p>8 happened?</p> <p>9 A. No, sir.</p> <p>10 Q. Did you ever speak with him again after the</p> <p>11 accident?</p> <p>12 A. No, sir.</p> <p>13 Q. Did you go to the hospital that night?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Who took you to the hospital?</p> <p>16 A. My ex.</p> <p>17 Q. Did you speak with the paramedics or EMTs on</p> <p>18 the scene?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Did they offer you medical treatment?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Did you decline medical treatment?</p> <p>23 A. No, sir. They had nothing to put on my hand,</p>

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<p>1 any splint or anything like that. So they</p> <p>2 offered me a ride to the emergency room, but I</p> <p>3 told them I had somebody coming because I</p> <p>4 could not afford the bill for the emergency --</p> <p>5 for the ambulance ride.</p> <p>6 Q. Did you sign their waiver of treatment form?</p> <p>7 Do you remember doing that?</p> <p>8 A. I don't remember if I did or not.</p> <p>9 Q. Do you remember telling the officer that you</p> <p>10 weren't hurt?</p> <p>11 A. No, sir.</p> <p>12 Q. You don't remember telling him that?</p> <p>13 A. I think I told him, my hand is broke.</p> <p>14 Q. Was your hand bleeding?</p> <p>15 A. No, sir.</p> <p>16 Q. Tell me about your hand injury as it was out</p> <p>17 there on the scene that night. I'm trying to</p> <p>18 get a picture.</p> <p>19 A. I couldn't move these two fingers</p> <p>20 (indicating). I mean, they were -- couldn't</p> <p>21 move them. They wouldn't respond. So -- but</p> <p>22 other than that, I really cannot tell you much</p> <p>23 about that injury.</p>	<p>1 Q. Where is Dr. Davis's practice?</p> <p>2 A. Opp.</p> <p>3 Q. Opp, Alabama? Do you know an address?</p> <p>4 A. Brantley Street. That's about all I know.</p> <p>5 Q. Have you treated with any other health care</p> <p>6 providers in the last ten years other than</p> <p>7 Dr. Davis?</p> <p>8 A. No, sir.</p> <p>9 Q. He's your primary care physician?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Never treated with a chiropractor in the past?</p> <p>12 A. No, sir.</p> <p>13 Q. Where do you get your prescriptions filled?</p> <p>14 A. Pharmicare and Rite Aid.</p> <p>15 Q. And that's Pharmicare, the same one that your</p> <p>16 brother was telling me about, right?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And what Rite Aid; that one on 84?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you've never been to the emergency room</p> <p>21 for any reason?</p> <p>22 A. No, sir.</p> <p>23 Q. Prior to this accident, had you ever had any</p>
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<p>1 Q. And you heard me asking your brother questions</p> <p>2 about his bodily injuries. I need to know all</p> <p>3 the parts of your body that you're claiming</p> <p>4 were injured in this accident. Obviously,</p> <p>5 your right hand, the two -- pinky finger and</p> <p>6 then the ring finger on your right hand. Any</p> <p>7 other body parts?</p> <p>8 A. No, sir.</p> <p>9 Q. That's the only body injury you're claiming in</p> <p>10 this accident?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Are you aware of any witnesses to the</p> <p>13 accident?</p> <p>14 A. No, sir.</p> <p>15 Q. Did you speak with Officer McGowin at any time</p> <p>16 after the accident occurred --</p> <p>17 A. No.</p> <p>18 Q. -- after you'd left the accident scene?</p> <p>19 A. No, sir.</p> <p>20 Q. Do you know if your brother ever did?</p> <p>21 A. No, sir.</p> <p>22 Q. Who is your family physician?</p> <p>23 A. Dr. Steven Davis.</p>	<p>1 problems with your right hand?</p> <p>2 A. No, sir.</p> <p>3 Q. Have you ever sought any medical treatment for</p> <p>4 your right hand?</p> <p>5 A. No, sir.</p> <p>6 Q. So you went to the hospital that night,</p> <p>7 correct?</p> <p>8 A. Yes, sir.</p> <p>9 Q. What did you tell them was wrong at the</p> <p>10 hospital when you got there?</p> <p>11 A. That my hand was broke -- that I thought it</p> <p>12 was broke.</p> <p>13 Q. Then what did they do for you?</p> <p>14 A. They took me back to the waiting room. I</p> <p>15 waited back there, seemed like forever. Then</p> <p>16 they took -- give me x-rays. Then they put a</p> <p>17 splint on it until I get to see Dr. Holland,</p> <p>18 and they gave me one Lortab 7.5 and sent me</p> <p>19 home.</p> <p>20 Q. And when did you treat next for your hand?</p> <p>21 A. I really can't remember an exact time, but I</p> <p>22 believe it was four to five days before I got</p> <p>23 to see Dr. Holland.</p>

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<p>1 Q. And when you got in to see Dr. Holland, what</p> <p>2 did he do for you?</p> <p>3 A. He put it in a cast.</p> <p>4 Q. How long were you in a cast?</p> <p>5 A. I really can't remember an exact time frame,</p> <p>6 but I believe it was three to four weeks I had</p> <p>7 to wear a cast.</p> <p>8 Q. Did you take any pain medication during that</p> <p>9 time?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Have you taken any pain medication today?</p> <p>12 A. No, sir.</p> <p>13 Q. So as of today's date, you don't have an</p> <p>14 outstanding prescription for pain relative to</p> <p>15 your right hand?</p> <p>16 A. No, sir.</p> <p>17 Q. Does your hand cause you pain?</p> <p>18 A. Yes, sir.</p> <p>19 Q. What do you do to alleviate the pain?</p> <p>20 A. Goody Powders.</p> <p>21 Q. Does that cut it?</p> <p>22 A. Not really. It helps but that's about it.</p> <p>23 Q. It reduces it?</p>	<p>1 A. No, sir.</p> <p>2 Q. Did he tell you to do so in the near future?</p> <p>3 A. Yes, sir.</p> <p>4 Q. You don't have problems, if you elect to have</p> <p>5 that surgery, coming back and telling me how</p> <p>6 it went?</p> <p>7 A. No, sir.</p> <p>8 Q. That would be okay?</p> <p>9 A. Yes, sir.</p> <p>10 Q. All right. Well, let me ask you this: Where</p> <p>11 did you work at time of this accident?</p> <p>12 A. Neal's Roofing and Construction.</p> <p>13 MR. HAYES: Can we go off the Record for a</p> <p>14 second?</p> <p>15 MR. RICHMOND: Yes.</p> <p>16 (Off-the-Record discussion)</p> <p>17 MR. RICHMOND: Let's go back on the</p> <p>18 Record.</p> <p>19 Q. At the time of the accident, what did you do</p> <p>20 at Neal's Roofing? I assume you're out in the</p> <p>21 field?</p> <p>22 A. I'm a roofer.</p> <p>23 Q. How many hours a week would you work?</p>
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<p>1 A. Makes it bearable.</p> <p>2 Q. After this accident, immediately after it</p> <p>3 happened, on a scale of one to ten, how would</p> <p>4 you rate your pain in your hand?</p> <p>5 A. Depending on what I'm doing. If I'm working,</p> <p>6 using a nail gun, some days it's about a</p> <p>7 five. And then if I bump it on something or</p> <p>8 hit it, it's about a ten.</p> <p>9 Q. Has your pain gotten progressively better as</p> <p>10 your hand was put into a cast and as time has</p> <p>11 passed?</p> <p>12 A. Yes, sir, some.</p> <p>13 Q. Has Dr. Holland recommended the surgery?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And do you intend to have that surgery?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Have you been recommended a particular</p> <p>18 physician or surgeon that you consult?</p> <p>19 A. University of Alabama is all I know. Some</p> <p>20 doctor up there. I can't remember his name.</p> <p>21 Q. In Birmingham?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Did he make you an appointment?</p>	<p>1 A. Forty to fifty.</p> <p>2 Q. Did you get paid per hour?</p> <p>3 A. Day.</p> <p>4 Q. Paid by the day?</p> <p>5 A. By the hour or by the day.</p> <p>6 Q. You were paid sometimes by the hour and</p> <p>7 sometimes you were paid for just a day's work?</p> <p>8 A. I get a hundred dollars a day.</p> <p>9 Q. Okay. And that was true at time of the</p> <p>10 accident?</p> <p>11 A. Yes, sir.</p> <p>12 Q. How many days of work did you miss following</p> <p>13 the accident?</p> <p>14 A. I probably couldn't put it in exact days for</p> <p>15 you, but from March 15th to the end of June.</p> <p>16 I think it was June 25th, 28th, somewhere up</p> <p>17 in there.</p> <p>18 Q. So you think you missed somewhere between</p> <p>19 three to four months worth of work?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And you didn't work any days during that three</p> <p>22 to four month's time?</p> <p>23 A. No, sir. I couldn't. I was not released from</p>

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<p>1 the doctor.</p> <p>2 Q. And what physician had held you out of work?</p> <p>3 A. Dr. Holland.</p> <p>4 Q. And did he put you on light duty, or did he</p> <p>5 tell you just not work at all?</p> <p>6 A. He told me not to work.</p> <p>7 Q. Were you in a cast that entire time?</p> <p>8 A. Excuse me?</p> <p>9 Q. Were you in a cast that entire time or --</p> <p>10 A. Not the entire time.</p> <p>11 Q. You were in a cast, did you tell me, about two</p> <p>12 weeks?</p> <p>13 A. Close to a month.</p> <p>14 Q. Close to a month.</p> <p>15 Did you receive any pay at all from Neal's</p> <p>16 Roofing?</p> <p>17 A. No, sir.</p> <p>18 Q. Did you have any insurance while you were</p> <p>19 working at Neal's Roofing?</p> <p>20 A. No, sir.</p> <p>21 Q. Do you still have a job out at Neal's Roofing?</p> <p>22 A. Yes, sir.</p> <p>23 Q. They're ready to take you back as soon as you</p>	<p>1 all the men in the field working?</p> <p>2 A. Everybody is in the field working. There is</p> <p>3 no light duty.</p> <p>4 Q. All the way up to the owner?</p> <p>5 A. Yes, sir.</p> <p>6 Q. During the -- let's say three months before</p> <p>7 the accident, were you working a steady 40 to</p> <p>8 50 hours a week every single week?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Because this work sometimes can be seasonal.</p> <p>11 And I'm just curious if you typically had,</p> <p>12 leading up to this accident, a solid 40 to 50</p> <p>13 hours available to you.</p> <p>14 A. Yes, sir, we worked year round unless it</p> <p>15 rains.</p> <p>16 Q. Prior to Neal's Roofing where did you work?</p> <p>17 A. Chris Salter's Construction.</p> <p>18 Q. Were you doing roofing work?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Is that based out of Andalusia?</p> <p>21 A. Opp.</p> <p>22 Q. Opp. Who was your supervisor?</p> <p>23 A. Chris Salter.</p>
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<p>1 can work?</p> <p>2 A. Yes, sir.</p> <p>3 Q. What are you doing for income right now?</p> <p>4 A. I work with Neal's Roofing.</p> <p>5 Q. Does he have you doing other things other</p> <p>6 than -- are you out roofing right now?</p> <p>7 A. Yes, sir.</p> <p>8 Q. But you didn't work at all. You didn't do any</p> <p>9 office work. You didn't do anything for them</p> <p>10 for the three to four months following the</p> <p>11 accident?</p> <p>12 A. No, sir.</p> <p>13 Q. You had no income whatsoever?</p> <p>14 A. No, sir.</p> <p>15 Q. And you had no employment other than Neal's</p> <p>16 Roofing since the accident?</p> <p>17 A. Yes, sir.</p> <p>18 Q. You had no other sources of income?</p> <p>19 A. No, sir.</p> <p>20 Q. Did you ever ask Neal's Roofing if they had</p> <p>21 any sort of light duty available?</p> <p>22 A. No, sir.</p> <p>23 Q. Did they have those types of positions or are</p>	<p>1 Q. Who's your supervisor at Neal's Roofing?</p> <p>2 A. Michael Neal, the owner.</p> <p>3 Q. And that would have been true at the time of</p> <p>4 the accident?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And where is Neal's Roofing and Construction</p> <p>7 located? What's the business address?</p> <p>8 A. I believe its Whatley Road, Loango, Alabama.</p> <p>9 I don't know it right off. I ain't got it</p> <p>10 memorized.</p> <p>11 Q. Whatley Road in --</p> <p>12 A. Loango, L-O-A-N-G-O.</p> <p>13 Q. L-O-A-N-G-O, Loango, Alabama. Do you know the</p> <p>14 zip for that?</p> <p>15 A. No, sir.</p> <p>16 Q. Do you have a phone number for either Neal's</p> <p>17 Roofing and Construction as a business or Mike</p> <p>18 Neal?</p> <p>19 A. 488-1091.</p> <p>20 Q. Area code 334?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Is that Mike's cell?</p> <p>23 A. Yes, sir.</p>

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<p>1 Q. Did you do anything other than roofing while</p> <p>2 you were at Chris Salter's Construction?</p> <p>3 A. Framing.</p> <p>4 Q. Framing work. Anything else?</p> <p>5 A. That's it.</p> <p>6 Q. Where did you work prior to Chris Salter's</p> <p>7 Construction?</p> <p>8 A. Ted Donaldson Construction.</p> <p>9 Q. Roofing work for Ted Donaldson Construction?</p> <p>10 A. Framing.</p> <p>11 Q. Framing. Prior to that?</p> <p>12 A. Prior to that. You have to give me a minute.</p> <p>13 Let's see. Mike Anderson Floor Covering.</p> <p>14 Q. Where is that located?</p> <p>15 A. Opp.</p> <p>16 Q. Do you remember prior to that?</p> <p>17 A. I think I might have did Doug's Roofing, but I</p> <p>18 wasn't there for very long, maybe eight</p> <p>19 months.</p> <p>20 Q. Where are they located?</p> <p>21 A. Sanford.</p> <p>22 Q. Sanford, Alabama?</p> <p>23 A. Uh-huh (positive response).</p>	<p>1 Have any of these employers ever</p> <p>2 terminated you?</p> <p>3 A. No.</p> <p>4 Q. Have you ever had health insurance with any of</p> <p>5 these?</p> <p>6 A. No.</p> <p>7 Q. And you don't have health insurance now?</p> <p>8 A. No.</p> <p>9 Q. Does anyone at Neal's Roofing qualify for</p> <p>10 health insurance?</p> <p>11 A. No.</p> <p>12 Q. Have you ever been qualified for Medicare or</p> <p>13 Medicaid coverage?</p> <p>14 A. No.</p> <p>15 Q. Have you calculated all the expenses that</p> <p>16 you're out of pocket to date?</p> <p>17 A. No.</p> <p>18 Q. You don't have any judgment as to what those</p> <p>19 are?</p> <p>20 A. Besides prescriptions, no.</p> <p>21 Q. How often do you take Goody's Powder for your</p> <p>22 hand? Is that something you have to take</p> <p>23 every day or is it --</p>
Page 46	Page 48
<p>1 Q. And Ted Donaldson Construction, was that Opp,</p> <p>2 Alabama?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Do you remember addresses for any of these?</p> <p>5 A. No.</p> <p>6 Q. Do you remember your supervisor's name? I</p> <p>7 assume it was Ted?</p> <p>8 A. Yes.</p> <p>9 Q. And at Mike Anderson, it would been Mike</p> <p>10 Anderson?</p> <p>11 A. Yes.</p> <p>12 Q. And Doug's roofing, what is Doug's last name?</p> <p>13 A. Mackoff.</p> <p>14 Q. Mackoff? Can you spell that.</p> <p>15 A. M-A-C-K-O-F-F.</p> <p>16 Q. Have we discussed all your prior employers</p> <p>17 that you can recall?</p> <p>18 A. Yes.</p> <p>19 Q. And have we discussed all the medical</p> <p>20 providers that you treated with in the last</p> <p>21 ten years --</p> <p>22 A. Yes.</p> <p>23 Q. -- that you can recall?</p>	<p>1 A. No.</p> <p>2 Q. Just ever so often? Do you have average of --</p> <p>3 do you take it once a week, once a month?</p> <p>4 A. Maybe twice a week.</p> <p>5 MR. RICHMOND: Give me a minute to review</p> <p>6 my notes. I think, for purposes of</p> <p>7 today, I'm about done.</p> <p>8 (Brief recess)</p> <p>9 Q. Just a few more questions. You said that -- I</p> <p>10 believe Dr. Holland held you out of work?</p> <p>11 A. Yes sir.</p> <p>12 Q. Did he give you a slip or piece of paper to</p> <p>13 take to your employer?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And did you take that to your employer?</p> <p>16 A. I told him it wasn't necessary. I didn't need</p> <p>17 it. I had already talked to my employer.</p> <p>18 Q. Do you recall Dr. Holland filling out that</p> <p>19 slip?</p> <p>20 A. No, sir.</p> <p>21 Q. He just offered to do that?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And you declined?</p>

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<p style="text-align: right;">Page 49</p> <p>1 A. Yes, sir.</p> <p>2 Q. Because you had already made arrangements with</p> <p>3 your employer?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And that would be Mike Neal?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And what had you told Mike?</p> <p>8 A. That I could come back to work, that I was</p> <p>9 released from the doctor.</p> <p>10 Q. I think we might not be on the same page. I'm</p> <p>11 not so much interested in when you actually</p> <p>12 went back to work. I'm interested in the</p> <p>13 first time you treated with Dr. Holland and he</p> <p>14 told you not to go to work. I believe you</p> <p>15 told me you missed about three or four months</p> <p>16 worth of work because Dr. Holland withheld you</p> <p>17 from work.</p> <p>18 A. Right.</p> <p>19 Q. Did Dr. Holland, when he first withheld you,</p> <p>20 give you a slip to take to your employer as</p> <p>21 proof that the physician was withholding you</p> <p>22 from work?</p> <p>23 A. No, sir.</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Are you getting full pay?</p> <p>2 A. Yes, sir.</p> <p>3 Q. Are you making about the same amount of money</p> <p>4 that you made --</p> <p>5 A. Yes, sir.</p> <p>6 Q. -- before the accident?</p> <p>7 A. Yes, sir.</p> <p>8 Q. And I understand that your hand causes you</p> <p>9 problems, but are you able to successfully</p> <p>10 complete all the tasks that are assigned to</p> <p>11 you at work?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And I'm going to reserve the right to come</p> <p>14 back if you do indeed have surgery and ask you</p> <p>15 questions about any sort of permanent problems</p> <p>16 you're having and how your injuries have</p> <p>17 affected you, how this accident has affected</p> <p>18 you, like I asked your brother.</p> <p>19 And I'm also going to reserve the right to</p> <p>20 ask you some more detailed questions about</p> <p>21 your employment background if you're indeed</p> <p>22 you're going to assert a lost earnings</p> <p>23 capacity claim.</p>
<p style="text-align: right;">Page 50</p> <p>1 Q. Did he offer to do that?</p> <p>2 A. I can't remember.</p> <p>3 Q. But you don't have any recollection of him</p> <p>4 filling out --</p> <p>5 A. No, sir.</p> <p>6 Q. -- that type of slip?</p> <p>7 A. No, sir.</p> <p>8 Q. And you certainly didn't give that type of</p> <p>9 slip to Mr. Neal?</p> <p>10 A. No, sir.</p> <p>11 Q. Did you employer ask for any evidence from</p> <p>12 your physician --</p> <p>13 A. No, sir.</p> <p>14 Q. -- that he withheld you from work?</p> <p>15 A. No, sir.</p> <p>16 Q. Mike took you at your word?</p> <p>17 A. Yes, sir. He knew that I had a cast.</p> <p>18 Q. You did eventually go back to work, though,</p> <p>19 right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And as of today's date, are you working a full</p> <p>22 40-hour week?</p> <p>23 A. Yes, sir.</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yes, sir.</p> <p>2 Q. But outside of those areas, I believe I'm</p> <p>3 done. Thank you for your time.</p> <p>4 A. Thank you.</p> <p>5 (Deposition concluded at 3:50 p.m.)</p> <p>6 *****</p> <p>7 FURTHER DEPONENT SAITH NOT</p> <p>8 *****</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

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Exhibit 2

